TITLE 7—AGRICULTURE

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CHAPTER 1—COMMODITY EXCHANGES

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 15b, 499n of this title; title 11 App. section 761; title 15 section 431; title 26 section 277.

§ 1. Short title

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-405, § 1, Sept. 30, 1978, 92 Stat. 865, provided: "That this Act [which enacted sections 13a-2, 16a, and 23 of this title, amended sections 2, 4a, 6c, 6d, 6f, 6g, 6k, 6m to 6o, 7a, 8, 12, 12a, 12c, 13, 13a, 15, 16, 18, and 21 of this title and section 6001 of Title 18, Crimes and Criminal Procedure, repealed section 15a of this title, omitted sections 12-1 to 12-3 of this title, and enacted provisions set out as notes under sections 2 and 20 of this title] may be cited as the 'Futures Trading Act of 1978'."

§ 2. Definitions

For the purposes of this chapter "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. The word "person" shall be construed to import the plural or singular, and shall include individuals, associations, partnerships, corporations, and trusts. The word "commodity" shall mean wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in section 13-1 of this title, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: *Provided*, That the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 7 of this title or any other board of trade, exchange, or market, and transactions subject to regulation by the Commission pursuant to section 23 of this title: *And provided further*, That, except as hereinabove provided, nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or any State. Nothing in this chapter shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade. The term "future delivery", as used in this chapter, shall not include any sale of any cash commodity for deferred shipment or delivery. The words "board of trade" shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling commodity or receiving the same for sale on consignment. The words "interstate commerce" shall be construed to mean commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof,

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or within any Territory or possession, or the District of Columbia. The words "cooperative association of producers" shall mean any cooperative association, corporate or otherwise, not less than 75 per centum in good faith owned or controlled, directly or indirectly, by producers of agricultural products and otherwise complying with sections 291 and 292 of this title, including any organization acting for a group of such associations and owned or controlled by such associations, provided that business done for or with the United States of America, or any agency thereof, shall not be considered either member or nonmember business in determining the compliance of any such association with said sections. The words "member of a contract market" shall mean and include individuals, associations, partnerships, corporations, and trusts owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon. The words "futures commission merchant" shall mean and include individuals, associations, partnerships, corporations, and trusts engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom. The words "floor broker" shall mean any person who, in or surrounding any "pit", "ring", "post", or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market. The words "the Commission" shall mean the Commodity Futures Trading Commission established under section 4a of this title. The term "commodity trading advisor" shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession. The term "commodity pool operator" shall mean any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order.

(As amended Sept. 30, 1978, Pub. L. 95-405, § 2(1), 92 Stat. 865.)

AMENDMENTS

1978—Pub. L. 95-405 substituted "section 23 of this title" for "section 15a of this title".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 28 of Pub. L. 95-405 provided that: "Except as otherwise provided in this Act, the provisions of this Act [see Short Title of 1978 Amendment note set out under section 1 of this title] shall become effective October 1, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6c, 6m, 23 of this title.

§ 4a. Commodity Futures Trading Commission

(a)(1) Establishment; composition; term of Commissioners

There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission. The Commission shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall seek to establish and maintain a balanced Commission, including, but not limited to, persons of demonstrated knowledge in futures trading or its regulation and persons of demonstrated knowledge in the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights and interests covered by this chapter. Not more than three of the members of the Commission shall be members of the same political party. Each Commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (i) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the Commissioners first taking office after the enactment of this paragraph shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years.

(2) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall

serve as Chairman at the pleasure of the President. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. At any time, the President may appoint, by and with the advice and consent of the Senate, a different Chairman, and the Commissioner previously appointed as Chairman may complete that Commissioner's term as a Commissioner.

[See main edition for text of (b) and (c)]

(d) Executive Director

The Commission shall have an Executive Director, who shall be appointed by the Commission and serve at the pleasure of the Commission. The Executive Director shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

(e) Powers and functions of Chairman

(1) Except as otherwise provided in this paragraph and in paragraphs (c) and (d) of this section, the executive and administrative functions of the Commission, including functions of the Commission with respect to the appointment and supervision of personnel employed under the Commission, the distribution of business among such personnel and among administrative units of the Commission, and the use and expenditure of funds, according to budget categories, plans, programs, and priorities established and approved by the Commission, shall be exercised solely by the Chairman.

(2) In carrying out any of his functions under the provisions of this paragraph, the Chairman shall be governed by general policies, plans, priorities, and budgets approved by the Commission and by such regulatory decisions, findings, and determination as the Commission may by law be authorized to make.

[See main edition for text of (3) to (6)]

(f) Conflict of interest

(1) No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this chapter during his term of office, nor shall he participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

(2) No Commissioner or employee of the Commission classified as a GS–16 or higher in a position excepted from the competitive service by reason of being of a confidential or policy-making character shall, for a period of one year beginning on the last day of service as such Commissioner or employee—

(i) make any appearance before the Commission, or

(ii) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission,

if such last day of service is more than four months after September 30, 1978. The restrictions in this subparagraph shall not apply to an appearance or response under a subpena issued by the Commission, or any matter of an exclusively personal and individual nature.

(g) Liaison with Department of Agriculture; communications with Department of Treasury, Federal Reserve Board, and Securities and Exchange Commission; application by a board of trade for designation as a contract market for future delivery of securities

(1) The Commission shall, in cooperation with the Secretary of Agriculture, maintain a liaison between the Commission and the Department of Agriculture. The Secretary shall take such steps as may be necessary to enable the Commission to obtain information and utilize such services and facilities of the Department of Agriculture as may be necessary in order to maintain effectively such liaison. In addition, the Secretary shall appoint a liaison officer, who shall be an employee of the Office of the Secretary, for the purpose of maintaining a liaison between the Department of Agriculture and the Commission. The Commission shall furnish such liaison officer appropriate office space within the offices of the Commission and shall allow such liaison officer to attend and observe all deliberations and proceedings of the Commission.

(2)(i) The Commission shall maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission for the purpose of keeping such agencies fully informed of Commission activities that relate to the responsibilities of those agencies, for the purpose of seeking the views of those agencies on such activities, and for considering the relationships between the volume and nature of investment and trading in contracts of sale of a commodity for future delivery and in securities and financial instruments under the jurisdiction of such agencies.

(ii) When a board of trade applies for designation as a contract market involving transactions for future delivery of any security issued or guaranteed by the United States or any agency thereof, the Commission shall promptly deliver a copy of such application to the Department of the Treasury and the Board of Governors of the Federal Reserve System. The Commission may not designate a board of trade as a contract market based on such application until forty-five days after the date the Commission delivers the application to such agencies or until the Commission receives comments from each of such agencies on the application, whichever period is shorter. Any comments received by the Commission from such agencies shall be included as part of the public record of the Commission's designation proceeding. In designating, or refusing, suspending, or revoking the designation of, a board of trade as a contract market involving transactions for future delivery referred to in this clause or in considering possible emergency action under section 12a(9) of this title with respect to such transactions, the Commission shall take into consideration all comments it receives from the

Department of the Treasury and the Board of Governors of the Federal Reserve System and shall consider the effect that any such designation, suspension, revocation, or emergency action may have on the debt financing requirements of the United States Government and the continued efficiency and integrity of the underlying market for government securities.

(iii) The provisions of this subparagraph shall not create any rights, liabilities, or obligations upon which actions may be brought against the Commission.

(h) Transmittal of budget requests and legislative recommendations to Congressional Committees

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

(2) Whenever the Commission transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.

[*See main edition for text of (i) and (j)*]

(As amended Sept. 30, 1978, Pub. L. 95-405, § 2(2)-(15), 92 Stat. 865-867.)

REFERENCES IN TEXT

GS-16, referred to in subsec. (f)(2), is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

Section consists of pars. (2) to (11) of section 2(a) of the Commodity Exchange Act. For purposes of codification the numbered pars. (2) to (11) have been translated as subsecs. (a) to (j), respectively, of this section, with subpars. (A) and (B) of par. (2), subpars. (A) to (F) of par. (6), subpars. (A) and (B) of par. (7), subpars. (A) and (B) of par. (8), and subpars. (A) and (B) of par. (9) in the original being translated as pars. (1) and (2) of subsec. (a), pars. (1) to (6) of subsec. (e), pars. (1) and (2) of subsec. (f), pars. (1) and (2) of subsec. (g), and pars. (1) and (2) of subsec. (h) of this section, respectively.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-405, § 2(2) to (5), designated existing provisions as par. (1) and, in par. (1) as so designated, substituted "five Commissioners" for "a chairman and four other Commissioners", "(i)" for "(A)", and "(ii)" for "(B)", and added par. (2).

Subsec. (d). Pub. L. 95-405, § 2(6), struck out ", by and with the advice and consent of the Senate," following "by the Commission".

Subsec. (e)(1). Pub. L. 95-405, § 2(7), inserted "according to budget categories, plans, programs, and priorities established and approved by the Commission," following "expenditure of funds,".

Subsec. (e)(2). Pub. L. 95-405, § 2(8), substituted ", plans, priorities, and budgets approved by the Commission" for "of the Commission".

Subsec. (f). Pub. L. 95-405, § 2(9), (10), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 95-405, § 2(11) to (13), designated existing provisions as par. (1) and, in par. (1) as so designated, substituted "maintain" for "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and added par. (2).

Subsec. (h)(1). Pub. L. 95-405, § 2(14), substituted "Senate Committee on Agriculture, Nutrition, and Forestry" for "Senate Committee on Agriculture and Forestry".

Subsec. (h)(2). Pub. L. 95-405, § 2(15), substituted "Senate Committee on Agriculture, Nutrition, and Forestry" for "Senate Committee on Agriculture and Forestry".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 6c. Prohibited transactions

(a) Commodities specifically listed

It shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of, any transaction involving any commodity, which is or may be used for (1) hedging any transaction in interstate commerce in such commodity or the products or byproducts thereof, or (2) determining the price basis of any such transaction in interstate commerce in such commodity, or (3) delivering any such commodity sold, shipped, or received in interstate commerce for the fulfillment thereof—

[*See main edition for text of (A)*]

(B) if such transaction involves any commodity specifically set forth in section 2 of this title, prior to October 23, 1974, and if such transaction is of the character of, or is commonly known to the trade as, "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or

[*See main edition for text of (C)*]

Nothing in this section shall be construed to prevent the exchange of futures in connection with cash commodity transactions or of futures for cash commodities, or of transfer trades or office trades if made in accordance with board of trade rules applying to such transactions and such rules shall have been approved by the Commission.

(b) Commodities regulated but not specifically listed

No person shall offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of paragraph (a) of

this section involving any commodity regulated under this chapter, but not specifically set forth in section 2 of this title, prior to October 23, 1974, which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe within one year after the effective date of the Commodity Futures Trading Commission Act of 1974 unless the Commission determines and notifies the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture that it is unable to prescribe such terms and conditions within such period of time: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for different markets.

(c) Commodity option transaction; conditions ending prohibition; excepted persons

Notwithstanding the provisions of subsection (b) of this section, no person may, after September 30, 1978, offer to enter into, enter into, or confirm the execution of any commodity option transaction involving any commodity regulated under this chapter but not specifically set forth in section 2 of this title prior to October 23, 1974, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, including a copy of the Commission's proposed rules and regulations, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal. The Commission is not precluded from transmitting, at any time, documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade. Nothing in this subsection shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978: *Provided*, That this prohibition shall not apply to any transaction expressly permitted under rules or regulations prescribed by the Commission, before or after September 30, 1978, to be offered to be entered into, entered into, or confirmed, in which the purchaser is a producer, processor, commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof.

(d) Dealer options exempt from subsections (b) and (c) prohibitions; requirements

Notwithstanding the provisions of subsection (c) of this section—

(1) any person domiciled in the United States who on May 1, 1978, was in the business of granting an option on a physical commodity and was in the business of buying, selling, producing, or otherwise using that commodity, may continue to grant or issue options on that commodity in accordance with Commission regulations in effect on August 17, 1978, until thirty days after the effective date of regulations issued by the Commission under clause (2) of this subsection: *Provided*, That if such person files an application for registration under the regulations issued under clause (2) of this subsection within thirty days after the effective date of such regulations, that person may continue to grant or issue options pending a final determination by the Commission on the application; and

(2) the Commission shall issue regulations that permit grantors and futures commission merchants to offer to enter into, enter into, or confirm the execution of, any commodity option transaction on a physical commodity subject to the provisions of subsection (b) of this section if—

(A) the grantor is a person domiciled in the United States who—

(i) is in the business of buying, selling, producing, or otherwise using the underlying commodity;

(ii) at all times has a net worth of at least $5,000,000 certified annually by an independent public accountant using generally accepted accounting principles;

(iii) notifies the Commission and every futures commission merchant offering the grantor's option if the grantor knows or has reason to believe that the grantor's net worth has fallen below $5,000,000;

(iv) segregates daily, exclusively for the benefit of purchasers, money, exempted securities (within the meaning of section 78c(a)(12) of title 15), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction;

(v) provides an identification number for each transaction; and

(vi) provides confirmation of all orders for such transactions executed, including the execution price and a transaction identification number;

(B) the futures commission merchant is a person who—

(i) has evidence that the grantor meets the requirements specified in subclause (A) of this clause;

(ii) treats and deals with all money, securities, or property received from its customers as payment of the purchase price in connection with such transactions, as belonging to such customers until the expiration of the term of the option, or, if the customer exercises the option, until all rights of the customer under the commodity option transaction have been fulfilled;

(iii) records each transaction in its customer's name by the transaction identification number provided by the grantor;

(iv) provides a disclosure statement to its customers, under regulations of the

Commission, that discloses, among other things, all costs, including any markups or commissions involved in such transaction; and

(C) the grantor and futures commission merchant comply with any additional uniform and reasonable terms and conditions the Commission may prescribe, including registration with the Commission.

The Commission may permit persons not domiciled in the United States to grant options under this subsection under such additional rules, regulations, and orders as the Commission may adopt to provide protection to purchasers that are substantially the equivalent of those applicable to grantors domiciled in the United States. The Commission may terminate the right of any person to grant, offer, or sell options under this subsection only after a hearing, including a finding that the continuation of such right is contrary to the public interest: *Provided,* That pending the completion of such termination proceedings, the Commission may suspend the right to grant, offer, or sell options of any person whose activities in the Commission's judgment present a substantial risk to the public interest.

(e) Rules and regulations

The Commission may adopt rules and regulations, after public notice and opportunity for a hearing on the record, prohibiting the granting, issuance, or sale of options permitted under subsection (d) of this section if the Commission determines that such options are contrary to the public interest.

(As amended Sept. 30, 1978, Pub. L. 95-405, § 3, 92 Stat. 867.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-405, § 3(1), in provisions following par. (C) substituted "have been approved" for "not have been disapproved".

Subsec. (b). Pub. L. 95-405, § 3(2), substituted "Senate Committee on Agriculture, Nutrition, and Forestry" for "Senate Committee on Agriculture and Forestry".

Subsecs. (c) to (e). Pub. L. 95-405, § 3(3), added subsecs. (c) to (e).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13 of this title; title 11 App. section 761.

§ 6d. Futures commission merchants, dealing by unregistered merchants prohibited; moneys and securities of customers, care and use

It shall be unlawful for any person to engage as futures commission merchant in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless—

(1) such person shall have registered, under this chapter, with the Commission as such futures commission merchant and such registration shall not have expired nor been suspended nor revoked; and

(2) such person shall, whether a member or nonmember of a contract market, treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades or contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held: *Provided, however,* That such money, securities, and property of the customers of such futures commission merchant may, for convenience, be commingled and deposited in the same account or accounts with any bank or trust company or with the clearing house organization of such contract market, and that such share thereof as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle the contracts or trades of such customers, or resulting market positions, with the clearing-house organization of such contract market or with any member of such contract market, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with such contracts and trades: *Provided further,* That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further,* That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

It shall be unlawful for any person, including but not limited to any clearing agency of a contract market and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section, to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant.

(As amended Sept. 30, 1978, Pub. L. 95-405, § 4, 92 Stat. 869.)

AMENDMENTS

1978—Pub. L. 95-405 in par. (2) added provisions authorizing the Commission to prescribe the terms and conditions under which funds and property commingled and deposited as permitted by par. (2) may be commingled and deposited with other funds and property received by a futures commission merchant and required by the Commission to be separately accounted for and treated as belonging to its customers.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 6f. Registration of commission merchants and brokers; financial requirements of futures commission merchants

(1) Any person desiring to register as futures commission merchant or as floor broker under this section shall be registered upon application to the Commission, which application shall be made in form and manner to be prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged, including, in the case of applications of futures commission merchants, the names and addresses of the managers of all branch offices and of all correspondents and agents engaged in soliciting or accepting on behalf of such applicant any orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any board of trade, and including also the names of its officers and partners, if partnership, and of its officers, directors, and stockholders, as the Commission may direct, if a corporation. Such person, when registered under this section, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to his business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in this chapter.

[*See main edition for text of (2)*]

(As amended Sept. 30, 1978, Pub. L. 95-405, § 5, 92 Stat. 869.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-405 substituted "Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe" for "All registrations shall expire on the 31st day of December of the year for which issued".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 6g. Reporting and recordkeeping

[*See main edition for text of (1) and (2)*]

(3) Floor brokers and futures commission merchants shall maintain daily trading records for each customer in such manner and form as to be identifiable with the trades referred to in paragraph (2) of this section.

[*See main edition for text of (4) to (6)*]

(As amended Sept. 30, 1978, Pub. L. 95-405, § 6, 92 Stat. 869.)

AMENDMENTS

1978—Par. (3). Pub. L. 95-405 substituted "Floor brokers" for "Brokers".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 6k. Registration of associates of futures commission merchants

[*See main edition for text of (1)*]

(2) Any such person desiring to be registered shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the date of issuance thereof, as the Commission may by rule, regulation, or order prescribe and shall be renewed upon application therefor, unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 9 of this title: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof.

(3) The Commission may authorize a registered futures association to perform any portion of the registration functions under this section, in accordance with rules approved by the Commission, and subject to the provisions of this chapter applicable to registrations granted by the Commission.

(As amended Sept. 30, 1978, Pub. L. 95-405, § 7, 92 Stat. 869.)

AMENDMENTS

1978—Par. (2). Pub. L. 95-405, § 7(1), added provisions authorizing the Commission to prescribe the period of registration of not less than one year for associated persons.

Par. (3). Pub. L. 95-405, § 7(2), added par. (3).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective

Date of 1978 Amendment note under section 2 of this title.

§ 6m. Use of mails or other means or instrumentalities of interstate commerce by commodity trading advisors and commodity pool operators

It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this chapter, to make use of the mails or any means or instrumentality of interstate commerce in connection with his business as such commodity trading advisor or commodity pool operator: *Provided*, That the provisions of this section shall not apply to any commodity trading advisor who, during the course of the preceding twelve months, has not furnished commodity trading advice to more than fifteen persons and who does not hold himself out generally to the public as a commodity trading advisor. The provisions of this section shall not apply to any commodity trading advisor who is a (1) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2 of this title prior to October 23, 1974, (or products thereof) or (2) nonprofit, voluntary membership, general farm organization, who provides advice on the sale or purchase of any commodity specifically set forth in section 2 of this title prior to October 23, 1974; if the advice by the person described in clause (1) or (2) of this sentence as a commodity trading advisor is solely incidental to the conduct of that person's business: *Provided*, That such person shall be subject to proceedings under section 18 of this title.

(As amended Sept. 30, 1978, Pub. L. 95–405, § 8, 92 Stat. 870.)

AMENDMENTS

1978—Pub. L. 95–405 added provisions relating to the applicability of this section to commodity trading advisors who are dealers, processors, brokers, or sellers in cash market transactions of specifically listed commodities or nonprofit, voluntary membership, general farm organizations who provide advice on sale or purchase of specifically listed commodities if the advice by the person described in cl. (1) or (2) of this sentence is incidental solely to the conduct to the person's business and that such person be subject to proceedings under section 18 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 6n. Registration of commodity trading advisors and commodity pool operators; application, expiration and renewal; record keeping and reports; disclosure; statements of account; denial of registration; revocation or suspension

[*See main edition for text of (1)*]

(2) Each registration under this section shall expire on the 30th day of June of each year, or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor subject to the same requirements as in the case of an original application.

(3)(A) Every commodity trading advisor and commodity pool operator registered under this chapter shall maintain books and records and file such reports in such form and manner as may be prescribed by the Commission. All such books and records shall be kept for a period of at least three years, or longer if the Commission so directs, and shall be open to inspection by any representative of the Commission or the Department of Justice. Upon the request of the Commission, a registered commodity trading advisor or commodity pool operator shall furnish the name and address of each client, subscriber, or participant, and submit samples or copies of all reports, letters, circulars, memorandums, publications, writings, or other literature or advice distributed to clients, subscribers, or participants, or prospective clients, subscribers, or participants.

(B) Unless otherwise authorized by the Commission by rule or regulation, all commodity trading advisors and commodity pool operators shall make a full and complete disclosure to their subscribers, clients, or participants of all futures market positions taken or held by the individual principals of their organization.

(4) Every commodity pool operator shall regularly furnish statements of account to each participant in his operations. Such statements shall be in such form and manner as may be prescribed by the Commission and shall include complete information as to the current status of all trading accounts in which such participant has an interest.

(5) The Commission is authorized, without hearing, to deny registration to any person as a commodity trading advisor or commodity pool operator if such person is subject to an outstanding order under this chapter denying to such person trading privileges on any contract market, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(6) The Commission after hearing may by order deny registration, revoke or suspend the registration of any commodity trading advisor or commodity pool operator if the Commission finds that such denial, revocation, or suspension is in the public interest and that—

(A) the operations of such person disrupt or tend to disrupt orderly marketing conditions, or cause or tend to cause sudden or unreasonable fluctuations or unwarranted changes in the prices of commodities;

(B) such commodity trading advisor or commodity pool operator, or any partner, officer, director, person performing similar function or controlling person thereof—

(i) has within ten years of the issuance of such order been convicted of any felony or misdemeanor involving the purchase or sale of any commodity or security, or arising out of any conduct or practice of such commodity trading advisor or commodity pool operator or affiliated person as a commodity trading advisor or commodity pool operator; or

(ii) at the time of the issuance of such order, is permanently or temporarily en-

joined by order, judgment or decree of any court of competent jurisdiction from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or as an affiliated person or employee of any of the foregoing, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of commodities or securities; or

(C) any partner, officer, or director of such commodity trading advisor or commodity pool operator, or any person performing a similar function or any controlling person thereof is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, or floor broker, or suspending or expelling such person from membership on any contract market.

(As amended Sept. 30, 1978, Pub. L. 95-405, § 9, 92 Stat. 870.)

AMENDMENTS

1978—Par. (2). Pub. L. 95-405, § 9(1)-(3), redesignated former par. (3) as (2) and, in par. (2) as so redesignated, substituted "Each registration" for "All registrations" and inserted "or at such other time, not less than one year from the effective date thereof, as the Commission may rule, regulation, or order prescribe," following "June of each year,". Former par. (2), which provided that registration under this section becomes effective thirty days after the receipt of such application by the Commission, or within such shorter period of time as the Commission may determine, was struck out.

Pars. (3) to (6). Pub. L. 95-405, § 9(1), redesignated former pars. (4) to (7) as (3) to (6). Former par. (3) redesignated (2).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 6o. Fraud and misrepresentation by commodity trading advisors and commodity pool operators

(1) It shall be unlawful for any commodity trading advisor or commodity pool operator, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

[*See main edition for text of (2)*]

(As amended Sept. 30, 1978, Pub. L. 95-405, § 10, 92 Stat. 870.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-405 struck out "registered under this chapter" following "pool operator".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 7a. Duties of contract markets

Each contract market shall—

[*See main edition for text of (1) to (10)*]

(11) Settlement of customers' claims and grievances

Provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term "customer" as used in this paragraph shall not include a futures commission merchant or a floor broker; and

(12) Commission approval of bylaws, rules, regulations, and resolutions

Except as otherwise provided in this paragraph, submit to the Commission for its approval all bylaws, rules and regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin. At least thirty days before approving any such bylaws, rules, regulations, and resolutions of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register such bylaws, rules, regulations, and resolutions. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such bylaws, rules, regulations, or resolutions are of major economic significance shall be final and not subject to judicial review. The Commission shall approve, within thirty days of their receipt (or within sixty days of their receipt if the Commission determines them to be of major economic significance) unless the Commission notifies the contract market of its inability to make such determination within such period of time, such bylaws, rules, regulations and resolutions upon a determination that such bylaws, rules, regulations, and resolutions are not in violation of the provisions of this chapter or the regulations of the Commission and thereafter the Commission shall disapprove, after appropriate notice and opportunity for hearing, any bylaw, rule, regulation, or resolution which the Commission finds at any time is in violation of the provisions of this chapter or the regulations of the Commission. The Commission shall specify the terms and conditions under which a contract

market may, in an emergency, as defined by the Commission, adopt a temporary rule dealing with trading requirements without prior Commission approval. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into immediate effect without prior Commission approval a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved. The Commission may adopt a regulation exempting enumerated types of contract market operational and administrative rules from the requirement that they be submitted to the Commission for its approval.

(As amended Sept. 30, 1978, Pub. L. 95-405, §§ 11, 12, 92 Stat. 870, 871.)

AMENDMENTS

1978—Par. (11). Pub. L. 95-405, § 11, inserted "(such as by delegation to a registered futures association having rules providing for such procedures)" following "arbitration or otherwise".

Par. (12). Pub. L. 95-405, § 12, inserted "(or within sixty days of their receipt if the Commission determines them to be of major economic significance)" following "thirty days of their receipt" and added provisions requiring that the Commission at least thirty days before approving any bylaws, rules, etc., of major economic significance publish such bylaws, rules, etc., in the Federal Register and that the Commission give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments and making the determination of the Commission as to whether any such bylaws, rules, etc., are of major economic significance final and not subject to judicial review.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 8. Application for designation as "contract market"; suspension or revocation of designation; hearing; review by court of appeals

Any board of trade desiring to be designated a "contract market" shall make application to the Commission for such designation and accompany the same with a showing that it complies with the conditions of section 7 of this title, and with a sufficient assurance that it will continue to comply with the requirements of such section 7. In the event of a refusal to designate as a "contract market" any board of trade that has made application therefor, such board of trade shall be afforded an opportunity for a hearing on the record before the Commission, with the right to appeal an adverse decision after such hearing to the court of appeals as provided for in other cases in paragraph (a) of this section.

(a) The Commission is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a "contract market" upon a showing that such board of trade is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title or that such board of trade, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder. Such suspension or revocation shall only be after a notice to the officers of the board of trade affected and upon a hearing on the record: *Provided*, That such suspension or revocation shall be final and conclusive, unless within fifteen days after such suspension or revocation by the Commission such board of trade appeals to the court of appeals for the circuit in which it has its principal place of business, by filing with the clerk of such court a written petition praying that the order of the Commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Commission and file in the court the record in such proceedings, as provided in section 2112 of title 28. The testimony and evidence taken or submitted before the Commission, duly filed as aforesaid as a part of the record, shall be considered by the court of appeals as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way. Such a court may affirm or set aside the order of the Commission or may direct it to modify its order. No such order of the Commission shall be modified or set aside by the court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of the Commission.

(As amended Sept. 30, 1978, Pub. L. 95-405, § 13(1), (2), 92 Stat. 871.)

AMENDMENTS

1978—Pub. L. 95-405, § 13(1), in provisions preceding par. (a) inserted "on the record" following "opportunity for a hearing".

Par. (a). Pub. L. 95-405, § 13(2), inserted "on the record" following "upon a hearing".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 12. Public disclosure

(a) Investigations respecting operations of boards of trade and others subject to this chapter; publication of results; restrictions

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the Commission may make such investigations as it deems necessary to ascertain the facts regarding the operations of boards of trade and other persons subject to the provisions of this chapter. The Commission may publish from time to time the

results of any such investigation and such general statistical information gathered therefrom as it deems of interest to the public: *Provided*, That except as otherwise specifically authorized in this chapter, the Commission may not publish data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.

(b) Market positions, business transactions, trade secrets, or names of customers made in connection with congressional proceedings or administrative or judicial proceedings under this chapter

The Commission may disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this chapter.

(c) Reports respecting conduct of boards of trade or transactions of violators; contents

The Commission may make or issue such reports as it deems necessary, or such opinions or orders as may be required under other provisions of law, relative to the conduct of any board of trade or to the transactions of any person found guilty of violating the provisions of this chapter or the rules, regulations, or orders of the Commission thereunder in proceedings brought under sections 8, 9 and 15 of this title. In any such report or opinion, the Commission may set forth the facts as to any actual transaction or any information referred to in subsection (b) of this section, if such facts or information have previously been disclosed publicly in connection with a congressional proceeding, or in an administrative or judicial proceeding brought under this chapter.

(d) Investigations respecting marketing conditions of commodities and commodity products and by-products; reports

The Commission, upon its own initiative or in cooperation with existing governmental agencies, shall investigate the marketing conditions of commodities and commodity products and byproducts, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. It shall also compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such other methods as it deems most effective, information respecting the commodity markets, together with information on supply, demand, prices, and other conditions in this and other countries that affect the markets.

(e) Names and addresses of traders of boards of trade previously disclosed; disclosure to Congress and/or to any department or agency of Executive Branch

The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader. Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to such committee the names and addresses of all traders on such boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of any commodity purchased or sold by each such trader. Upon the request of any department or agency of the Executive Branch of the Government of the United States, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this chapter. However, any information furnished under this subsection to any Federal department or agency shall not be disclosed by such department or agency except in any action or proceeding under the laws of the United States to which it, the Commission, or the United States is a party.

(f) Annual report to Congress

The Commission shall submit to Congress a written report within one hundred and twenty days after the end of each fiscal year detailing the operations of the Commission during such fiscal year. The Commission shall include in such report such information, data, and legislative recommendations as it deems advisable with respect to the administration of this chapter and its powers and functions under this chapter.

(g) Review and audits by Comptroller General

The Comptroller General of the United States shall conduct reviews and audits of the Commission and make reports thereon. For the purpose of conducting such reviews and audits, the Comptroller General shall be furnished such information regarding the powers, duties, organizations, transactions, operations, and activities of the Commission as the Comptroller General may require and the Comptroller General and the duly authorized representatives of the Comptroller General shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of the Commission, except that in reports the Comptoller General shall not include data and information that would separately disclose the business transactions of any person and trade secrets or names of customers, although such data shall be provided upon request by any committee of either House of Congress acting within the scope of its jurisdiction.

(As amended Sept. 30, 1978, Pub. L. 95–405, § 16, 92 Stat. 873.)

AMENDMENTS

1978—Pub. L. 95–405 consolidated under this section provisions formerly contained in this section and sections 12–1, 12–2, and 12–3 of this title, generally revised the provisions thus consolidated to clarify and expand disclosure to the public of traders and their positions on boards of trade, and divided the provi-

sions thus consolidated and revised into subsecs. (a) to (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12a, 15, 20 of this title.

§§ 12-1 to 12-3. Omitted

CODIFICATION

Sections 12-1 to 12-3 comprised the second, third, and fourth paragraphs, respectively, of section 8 of the Commodity Exchange Act, Sept. 21, 1922, ch. 369, § 8, 42 Stat. 1003. Such section 8 was amended generally by Pub. L. 95-405, § 16, Sept. 30, 1978, 92 Stat. 873, and is now classified in its entirety to section 12 of this title.

Section 12-1, as added Dec. 19, 1947, ch. 523, 61 Stat. 941, and amended Feb. 19, 1968, Pub. L. 90-258, § 19(b), 82 Stat. 32; Oct. 23, 1974, Pub. L. 93-463, title I, § 103(a), (e), (f), 88 Stat. 1392, related to disclosure of names of traders on the commodity markets by Commission. See section 12(e) of this title.

Section 12-2, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 105, 88 Stat. 1392, provided for an annual report to Congress. See section 12(f) of this title.

Section 12-3, as added Oct. 23, 1974, Pub. L. 93-463, title I, § 105, 88 Stat. 1392, related to reviews and audits by the Comptroller General. See section 12(g) of this title.

§ 12a. Registration of commission merchants and brokers; fees; rules and regulations; publication of harmful acts; disapproval of bylaws, etc.

The Commission is authorized—

(1) to register futures commission merchants and persons associated therewith as described in section 6k of this title, commodity trading advisors, commodity pool operators and floor brokers upon application in accordance with rules and regulations and in form and manner to be prescribed by the Commission, which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing; and

[See main edition for text of (2) to (5)]

(6) to communicate to the proper committee or officer of any contract market, notwithstanding the provisions of section 12 of this title, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgement of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers and consumers; and

[See main edition for text of (7) to (9)]

(As amended Sept. 30, 1978, Pub. L. 95-405, § 17, 92 Stat. 874.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-405, § 17(1), inserted ", which may require the applicant, and any persons associated with the applicant as the Commission my specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing" following "by the Commission".

Par. (6). Pub. L. 95-405, § 17(2), struck out "and to publish" following "any contract market".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4a, 20 of this title.

§ 12c. Disciplinary actions; notice; review of action by Commission

(1)(A) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or otherwise discipline any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

(B) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission.

[See main edition for text of (2) to (4)]

(As amended Sept. 30, 1978, Pub. L. 95-405, § 18, 92 Stat. 874.)

AMENDMENTS

1978—Par. (1)(B). Pub. L. 95-405 substituted "An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined or denied access, and to the Commission" for "Otherwise the notice and reasons shall be kept confidential".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 13. Violations generally; punishment; costs of prosecution

(a) Embezzlement, larceny, etc.; felony; value

It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any futures commission merchant, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or

the use of another, any money, securities, or property having a value in excess of $100, which was received by such commission merchant to margin, guarantee, or secure the trades or contracts of any customer of such commission merchant or accruing to such customer as the result of such trades or contracts. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. The word "value" as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

(b) Price manipulation; cornering; postal or interstate dissemination of false or misleading information affecting price of commodity in interstate commerce; felony

It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity, or knowingly to deliver or cause to be delivered for transmission through the mails or in interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section 6, 6b, 6c(b) through 6c(e), 6h, 6*o*(1), or 23 of this title, or knowingly to make any false or misleading statement of a material fact in any registration application or report filed with the Commission, or knowingly to omit in any application or report any material fact that is required to be stated therein. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution.

(c) Other violations; misdemeanors

Except as provided in subsections (a), (b), (d), and (e) of this section, it shall be a misdemeanor punishable by a fine of not more than $100,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, for any person to violate any provisions of section 6a, 6c(a), 6d, 6e, 6i, 6k, 6m, 6*o*(2), or 12b of this title, or to fail to evidence any contract mentioned in section 6 of this title by a record in writing as therein required.

(d) Transactions by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity: *Provided*, That such prohibition against any investment transaction in an actual commodity shall not apply to a transaction in which such person buys an agricultural commodity or livestock for use in his own farming or ranching operations or sells an agricultural commodity which he has produced in connection with his own farming or ranching operations nor to any transaction in which he sells livestock which he has owned at least three months. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public.

(e) Use of information by Commissioners and Commission employees prohibited

It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner of the Commission or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been made public to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"; and (2) for any person to acquire such information from any Commissioner of the Commission or any employee or agent thereof and to use such information in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty".

(As amended Sept. 30, 1978, Pub. L. 95–405, § 19, 92 Stat. 875.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–405, § 19(1), substituted "$500,000" for "$100,000" and added provision relating to a fine of not more than $100,000 plus costs of prosecution for a violation by a person who is an individual.

Subsec. (b). Pub. L. 95–405, § 19(2), substituted "$500,000" for "$100,000" and added provisions making felonies the violation of sections 6, 6b, 6c(b) to (e), 6h, 6*o*(1) and 23 of this title, knowingly making any false or misleading statement of material fact, or omitting such fact in any application or report, and setting the fine for such felonies at not more than $100,000 for a person who is an individual.

Subsec. (c). Pub. L. 95–405, § 19(3), added references to subsecs. (d) and (e) of this section and substituted

"sections 6a, 6c(a), 6d, 6e, 6i, 6k, 6m, 6o(2), or 12b of this title" for "sections 6 to 6e, 6h, 6i, 6k, 6m, 6o or 12b of this title".

Subsec. (d). Pub. L. 95–405, § 19(4), substituted "$100,000" for "$10,000".

Subsec. (e). Pub. L. 95–405, § 19(5), substituted "$100,000" for "$10,000".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 13b of this title.

§ 13a. Nonenforcement of rules of government or other violations; cease and desist orders; fines and penalties; imprisonment; misdemeanor; separate offenses

If any contract market is not enforcing or has not enforced its rules of government made a condition of its designation as set forth in section 7 of this title, or if any contract market, or any director, officer, agent, or employee of any contract market otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing on the record and subject to appeal as in other cases provided for in paragraph (a) of section 8 of this title, make and enter an order directing that such contract market, director, officer, agent, or employee shall cease and desist from such violation, and assess a civil penalty of not more than $100,000 for each such violation. If such contract market, director, officer, agent, or employee, after the entry of such a cease and desist order and the lapse of the period allowed for appeal of such order or after the affirmance of such order, shall fail or refuse to obey or comply with such order, such contract market, director, officer, agent, or employee shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100,000 or imprisoned for not less than six months nor more than one year, or both. Each day during which such failure or refusal to obey such cease and desist order continues shall be deemed a separate offense. If the offending contract market or other person upon whom such penalty is imposed, after the lapse of the period allowed for appeal or after the affirmance of such penalty, shall fail to pay such penalty, the Commission shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court. In determining the amount of the money penalty assessed under this section, the Commission shall consider the appropriateness of such penalty to the net worth of the offending person and the gravity of the offense, and in the case of a contract market shall further consider whether the amount of the penalty will materially impair the contract market's ability to carry on its operations and duties.

(As amended Sept. 30, 1978, Pub. L. 95–405, § 14, 92 Stat. 872.)

AMENDMENTS

1978—Pub. L. 95–405 inserted "on the record" following "notice and hearing".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 13a–2. Jurisdiction of States

(1) Whenever it shall appear to the attorney general of any State, the administrator of the securities laws of any State, or such other official as a State may designate, that the interests of the residents of that State have been, are being, or may be threatened or adversely affected because any person (other than a contract market, clearinghouse, or floor broker) has engaged in, is engaging or is about to engage in, any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order of the Commission thereunder, the State may bring a suit in equity or an action at law on behalf of its residents to enjoin such act or practice, to enforce compliance with this chapter, or any rule, regulation, or order of the Commission thereunder, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia, shall have jurisdiction of all suits in equity and actions at law brought under this section to enforce any liability or duty created by this chapter or any rule, regulation, or order of the Commission thereunder, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this chapter or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) Immediately upon instituting any such suit or action, the State shall serve written notice thereof upon the Commission and provide the Commission with a copy of its complaint, and the Commission shall have the right to (A) intervene in the suit or action and, upon doing so, shall be heard on all matters arising therein, and (B) file petitions for appeal.

(4) Any suit or action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(5) For purposes of bringing any suit or action under this section, nothing in this chap-

ter shall prevent the attorney general, the administrator of the State securities laws, or other duly authorized State officials from exercising the powers conferred on them by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(6) For purposes of this section, "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(Sept. 21, 1922, ch. 369, § 6d, as added Sept. 30, 1978, Pub. L. 95–405, § 15, 92 Stat. 872.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 15. Enforcement powers of Commission

For the purpose of securing effective enforcement of the provisions of this chapter and for the purpose of any investigation or proceeding under this chapter, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found.

(As amended Sept. 30, 1978, Pub. L. 95–405, § 13(3), 92 Stat. 871.)

AMENDMENTS

1978—Pub. L. 95–405 substituted provisions giving the Commission or any Administrative Law Judge or other officer designated by the Commission independent authority to administer oaths and affirmations, to subpena witnesses, and related actions for the purpose of conducting investigations and proceedings with regard to this chapter for provisions basing the authority of the Commission or any Administrative Law Judge with regard to investigations and proceedings under this chapter on the Interstate Commerce Act and added provisions authorizing the Commission to invoke the aid of the courts in requiring the attendance and testimony of witnesses and the production of books and other records.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 15a. Repealed. Pub. L. 95–405, § 24, Sept. 30, 1978, 92 Stat. 877

Section, Pub. L. 93–463, title II, § 217, Oct. 23, 1974, 88 Stat. 1405, related to leverage contracts for gold and silver. See section 23(b) of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 16. Commission operations

[See main edition for text of (a) to (c)]

(d) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter such sums as may be required for each of the fiscal years during the period beginning October 1, 1978, and ending September 30, 1982.

(As amended Sept. 30, 1978, Pub. L. 95–405, § 20, 92 Stat. 875.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–405 substituted "for each of the fiscal years during the period beginning October 1, 1978, and ending September 30, 1982" for "for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, for the fiscal year ending June 30, 1977, and for the fiscal year ending June 30, 1978".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–405 effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 16a. Development and implementation of plan for user fees; report to and approval by congressional committees

Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. However, prior to implementing such a plan, the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. The Commission shall include in its report the feasibility and desirability of collecting such fees. Any plan developed under this section

shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Pub. L. 95-405, § 26, Sept. 30, 1978, 92 Stat. 877.)

CODIFICATION

Section was enacted as a part of the Futures Trading Act of 1978, and not as a part of the Commodity Exchange Act, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 18. Complaints against registered persons

(a) Petition

Any person complaining of any violation of any provision of this chapter or any rule, regulation, or order thereunder by any person who is registered or required to be registered under section 6d, 6e, 6j or 6m of this title may, at any time within two years after the cause of action accrues, apply to the Commission by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Commission, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Commission to the respondent, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Commission.

(b) Investigation and hearing

If there appear to be, in the opinion of the Commission, any reasonable grounds for investigating any complaint made under this section, the Commission shall investigate such complaint and may, if in its opinion the facts warrant such action, have said complaint served by registered mail or by certified mail or otherwise on the respondent and afford such person an opportunity for a hearing thereon before an Administrative Law Judge designated by the Commission in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of $5,000, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

(c) Determination

After opportunity for hearing on complaints where the damages claimed exceed the sum of $5,000 has been provided or waived and on complaints where damages claimed do not exceed the sum of $5,000 not requiring hearing as provided herein, the Commission shall determine whether or not the respondent has violated any provision of this chapter or any rule, regulation, or order thereunder.

[*See main edition for text of* (d) *to* (i)]

(As amended Sept. 30, 1978, Pub. L. 95-405, § 21, 92 Stat. 875.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-405, § 21(1), substituted "who is registered or required to be registered" for "registered".

Subsec. (b). Pub. L. 95-405, § 21(2), substituted "$5,000" for "$2,500".

Subsec. (c). Pub. L. 95-405, § 21(3), substituted "$5,000" for "$2,500" wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6m of this title.

§ 20. Market reports

[*See main edition for text of* (a) *to* (c)]

(d) Disclosure of business transactions, trade secrets, or names of customers

The Commission shall not disclose in such reports data and information which would separately disclose the business transactions of any person and trade secrets or names of customers except as provided in section 12 of this title.

(Sept. 21, 1922, ch. 369, § 16, as added Oct. 23, 1974, Pub. L. 93-463, title IV, § 414, 88 Stat. 1414.)

CODIFICATION

Subsec. (d) is set out in this supplement to reflect the current classification of "section 8 of this Act" to section 12 of this title. Prior to the general amendment made by Pub. L. 95-405, such section 8 was classified to sections 12 to 12-3 of this title.

POTATO FUTURES STUDY; SUBMISSION OF REPORT TO CONGRESS

Pub. L. 95-405, § 27, Sept. 30, 1978, 92 Stat. 877, provided that:

"Within one year of the effective date of this Act [Sept. 30, 1978], the Secretary of Agriculture shall—

"(1) conduct a comprehensive study of the marketing of Irish potatoes and of the making and trading of contracts of sale for the future delivery of Irish potatoes, including rules and regulations pertaining to such trading issued by the Commodity Futures Trading Commission or any contract market designated by the Commission; and

"(2) submit to each House of Congress a detailed report on the results of such study.

The report shall also include any proposals the Secretary may have concerning any legislation needed to implement such recommendations and concerning any modifications and rules and regulations needed to improve regulation of such contracts by the Commission or any contract market designated by the Commission."

§ 21. Registered futures associations

[*See main edition for text of* (a)]

(b) Standards for registration; Commission findings

An applicant association shall not be registered as a futures association unless the Commission finds, under standards established by the Commission, that—

[*See main edition for text of* (1) *and* (2)]

(3) the rules of the association provide that, except with the approval or at the direction

of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall be admitted to or continued in membership in such association, if such person—

[*See main edition for text of (A)*]

(B) is subject to an order of the Commission denying, suspending, or revoking his registration pursuant to section 9 of this title, or expelling or suspending him from membership in a registered futures association or a contract market, or barring or suspending him from being associated with a futures commission merchant; or

[*See main edition for text of (C) and (D); (4) to (9)*]

(10) the rules of the association provide for a fair and equitable procedure through arbitration or otherwise for the settlement of a customer's claims and grievances against any member or employee thereof: *Provided,* That (i) the use of such procedure by a customer shall be voluntary, (ii) the procedure shall not be applicable to any claim in excess of $15,000, (iii) the procedure shall not result in any compulsory payment except as agreed upon between the parties, and (iv) the term "customer" as used in this paragraph shall not include a futures commission merchant or a floor broker.

[*See main edition for text of (c) to (k)*]

(l) Suspension and revocation of registration; expulsion of members; removal of association officers or directors

The Commission is authorized, if such action appears to it to be necessary or appropriate in the public interest or to carry out the purposes of this section—

(1) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to revoke the registration of a registered futures association, if the Commission finds that such association has violated any provisions of this chapter or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this chapter;

(2) after appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding twelve months or to expel from a registered futures association any member thereof, or to suspend for a period not exceeding twelve months or to bar any person from being associated with a member thereof, if the Commission finds that such member or person—

(A) has violated any provision of this chapter or any rule or regulation thereunder, or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any provision of this chapter or any rule or regulation thereunder; or

(B) has willfully violated any provision of this chapter, or of any rule, regulation, or order thereunder, or has effected any transaction for any other person who, he had reason to believe, was willfully violating with respect to such transaction any provision of this chapter or rule, regulation, or order.

[*See main edition for text of (3)*]

(m) Rules requiring membership in associations

Notwithstanding any other provision of law, the Commission may approve rules of futures associations that, directly or indirectly, require persons eligible for membership in such associations to become members of at least one such association, upon a determination by the Commission that such rules are necessary or appropriate to achieve the purposes and objectives of this chapter.

(n) Reports to Congress

The Commission shall include in its annual reports to Congress information concerning any futures associations registered pursuant to this section and the effectiveness of such associations in regulating the practices of the members.

(As amended Sept. 30, 1978, Pub. L. 95-405, § 22, 92 Stat. 876.)

AMENDMENTS

1978—Subsec. (b)(3)(B). Pub. L. 95-405, § 22(1), struck out "(7 U.S.C. 9)" following "section 9 of this title", which for purposes of codification had already been eliminated.

Subsec. (b)(10). Pub. L. 95-405, § 22(2), substituted "$15,000" for "$5,000".

Subsec. (*l*)(1), (2)(A). Pub. L. 95-405, § 22(3), substituted "chapter" for "section" wherever appearing.

Subsec. (m). Pub. L. 95-405, § 22(4), added subsec. (m). Former subsec. (m) was redesignated (n).

Subsec. (n). Pub. L. 95-405, § 22(4) redesignated former subsec. (m) as (n).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

§ 23. Standardized contracts for certain commodities prohibited

(a) Margin accounts, margin contracts, arrangements, etc.

No person shall offer to enter into, enter into, or confirm the execution of, any transaction for the delivery of any commodity specifically set forth in section 2 of this title prior to October 23, 1974, under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.

(b) Contracts for delivery of silver and gold bullion, bulk silver and gold coins; rules and regulations

No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins, under a

standardized contract described in subsection (a) of this section, contrary to any rule, regulation, or order of the Commission designed to ensure the financial solvency of the transaction or prevent manipulation or fraud: *Provided*, That such rule, regulation, or order may be made only after notice and opportunity for hearing.

(c) Regulation of other commodities under standardized contracts

The Commission may prohibit or regulate any transactions, under a standardized contract described in subsection (a) of this section, involving any other commodities under such terms and conditions as the Commission shall initially prescribe by October 1, 1979: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities.

(d) Application of provisions to transactions determined to be contracts for future delivery

If the Commission determines that any transaction under subsections (b) and (c) of this section is a contract for future delivery within the meaning of this chapter, such transaction shall be regulated in accordance with the applicable provisions of this chapter.

(Sept. 21, 1922, ch. 369, § 19, as added Sept. 30, 1978, Pub. L. 95–405, § 23, 92 Stat. 876.)

CODIFICATION

Another section 19 of the Commodity Exchange Act was added by Pub. L. 95–598, title III, § 302, 92 Stat. 2673, and is classified to section 24 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 28 of Pub. L. 95–405, set out as an Effective Date of 1978 Amendment note under section 2 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2, 13 of this title.

§ 24. Regulations respecting commodity broker debtors; definition

(a) Notwithstanding title 11, the Commission may provide, with respect to a commodity broker that is a debtor under chapter 7 of title 11, by rule or regulation—

(1) that certain cash, securities, other property, or commodity contracts are to be included in or excluded from customer property or member property;

(2) that certain cash, securities, other property, or commodity contracts are to be specifically identifiable to a particular customer in a specific capacity;

(3) the method by which the business of such commodity broker is to be conducted or liquidated after the date of the filing of the petition under such chapter;

(4) any persons to which customer property and commodity contracts may be transferred under section 766 of title 11, and

(5) how the net equity of a customer is to be determined.

(b) As used in this section, the terms "commodity broker", "commodity contract", "customer", "customer property", "member property", "net equity", and "security" have the meanings assigned such terms for the purposes of subchapter IV of chapter 7 of title 11.

(Sept. 21, 1922, ch. 369, § 19, as added Nov. 6, 1978, Pub. L. 95–598, title III, § 302, 92 Stat. 2673.)

CODIFICATION

Another section 19 of the Commodity Exchange Act was added by Pub. L. 95–405, § 23, Sept. 30, 1978, 92 Stat. 876, and is classified to section 23 of this title.

EFFECTIVE DATE

Section effective Nov. 6, 1978, see section 402(d) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

CHAPTER 2—COTTON STANDARDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 15b of this title; title 31 section 725d.

CHAPTER 3—GRAIN STANDARDS

§ 74. Congressional findings and declaration of policy

EFFECTIVE DATE OF 1976 AMENDMENT

Section 27 of Pub. L. 94–582, as amended by Pub. L. 95–113, title XVI, §§ 1602(d), 1605(b), 1607(b), 1608, Sept. 29, 1977, 91 Stat. 1025, 1030, 1031, provided that: "This Act [see Short Title of 1976 Amendment note set out under section 71 of this title] shall become effective thirty days after enactment hereof [Oct. 21, 1976]; and thereafter no State or other agency or person shall provide official inspection or official weighing or supervision of weighing under the United States Grain Standards Act as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title], at an export port location without a delegation of authority or other authorization under such amended Act, and no agency or person shall provide official inspection service or official weighing or supervision of weighing under such amended Act in any other area without a designation or other authorization under such amended Act, except that any agency or person then providing such service in any area may continue to operate in that area without a delegation or designation or other authorization under such Act but shall be subject to all provisions of the United States Grain Standard Act [this chapter] and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

"(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title]; or

"(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act [this chapter] in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain: *Provided*, That the Administrator may allow such affected agency or person to continue to operate in that area if the Administrator determines that such continued operations are necessary or desirable in carrying out the requirements of this Act: *Provided further*, That the Administrator

shall, within 30 days after making such determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate detailing the factual bases for such determination; or

"(3) with respect to export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

"(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof:

Provided, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act [see Short Title of 1976 Amendment note set out under section 71 of this title], to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act [Oct. 21, 1976], at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 86, 87e, 87f–2 of this title.

§ 75. Definitions

When used in this chapter, except where the context requires otherwise—

[*See main edition for text of* (*a*) *to* (*f*)]

(g) the term "grain" means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 76 of this title;

[*See main edition for text of* (*h*)]

(i) The term "official inspection" means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this chapter, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other criteria approved by the Administrator under this chapter (the term "officially inspected" shall be construed accordingly);

[*See main edition for text of* (*j*) *to* (*l*)]

(m) the term "official agency" means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing);

[*See main edition for text of* (*n*) *to* (*w*)]

(x) The term "official weighing" means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided for in this chapter, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms "officially weigh" and "officially weighed" shall be construed accordingly);

(y) the term "supervision of weighing" means such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such pnysical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance;

[*See main edition for text of* (*z*)]

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, §§ 1604(a), 1606(a), 91 Stat. 1026, 1030.)

AMENDMENTS

1977—Subsec. (g). Pub. L. 95–113, § 1604(a)(1), substituted "sorghum" for "grain sorghum".

Subsec. (i). Pub. L. 95–113, § 1606(a), struck out reference to the determination of the quantity of sacks of grain upon the request of the interested party applying for inspection.

Subsec. (m). Pub. L. 95–113, § 1604(a)(2), substituted "or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing)" for "or subsection (b) of section 79a of this title for the conduct of supervision of weighing".

Subsec. (x). Pub. L. 95–113, § 1604(a)(3), substituted "under standards provided for in this chapter" for "under standards provided in this chapter".

Subsec. (y). Pub. L. 95–113, § 1604(a)(4), substituted "such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance" for "the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 75a. Federal Grain Inspection Service; Administrator

There is created and established in the Department of Agriculture a Service to be known as the Federal Grain Inspection Service, all the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this chapter and for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of this chapter. The Secretary may delegate authority to the Administrator to perform related functions for grain and similar commodities and products thereof under other statutes administered by the Department of Agriculture. Notwithstanding any other provision of law, the Secretary is authorized to appoint four individuals to positions at grade 16 of the General Schedule, in the Service.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, § 1604(b), 91 Stat. 1026.)

References in Text

Grade 16 of the General Schedule, referred to in text, is set out under section 5332 of Title 5, Government Organization and Employees.

Amendments

1977—Pub. L. 95–113 added provisions authorizing the Secretary to delegate authority to the Administrator to perform related functions for grain and similar commodities and products thereof under other statutes administered by the Department of Agriculture and authorizing the Secretary to appoint four individuals to positions at grade 16 of the General Schedule in the Service.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Temporary Advisory Committee

Section 1603 of Pub. L. 95–113 provided that:

"(a) In order to assure the normal movement of grain in an orderly and timely manner, the Secretary of Agriculture shall establish a temporary advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service with respect to the implementation of the United States Grain Standards Act of 1976 [see Short Title of 1976 Amendment note under section 71 of this title]. The advisory committee shall consist of not more than twelve members, appointed by the Secretary, representing the interests of grain producers, consumers, and all segments of the grain industry, including grain inspection and weighing agencies. Members of the advisory committee shall be appointed not later than thirty days after the date of enactment of this Act [Sept. 29, 1977].

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act [Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees].

"(c) The Administrator of the Federal Grain Inspection Service shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this title, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

"(e) The advisory committee shall terminate eighteen months after the date of enactment of this Act [Sept. 29, 1977].

"(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section."

§ 76. Standards and procedures; establishment, amendment, and revocation

(a) The Administrator is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and (2) standards or procedures for accurate weighing and weight certification and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Administrator is authorized to amend or revoke such standards or procedures whenever the necessities of the trade may require.

[*See main edition for text of* (b)]

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, § 1604(c), 91 Stat. 1027.)

Amendments

1977—Subsec. (a). Pub. L. 95–113 substituted "sorghum" for "grain sorghum", "standards or procedures" for "standards", "weight certification and controls" for "weight certification procedures and controls", and "calibration and maintenance, for grain" for "calibration and maintenance for grain".

Effective Date of 1977 Amendment

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 77. Official inspection and weighing requirements; waiver; supervision by representatives of Administrator

(a) Whenever standards or procedures are effective under section 76 of this title for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States) in accordance with such standards or procedures, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents

covering the shipment: *Provided,* That the Administrator may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this chapter: *Provided further,* That the Administrator shall waive the requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment;

(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this chapter, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedures; and

[*See main edition for text of* (3); (b)]

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, § 1606(b), 91 Stat. 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–113 substituted "standards or procedures" for "standards" wherever appearing.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States

(a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 76 of this title for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided,* That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other criteria shall not be deemed to be a description of grain as being of any grade.

[*See main edition for text of* (b)]

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, § 1606(c), 91 Stat. 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–113 substituted "criteria" for "factor information".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 79. Official inspection

[*See main edition for text of* (a)]

(b) Inspections made pursuant to request of interested persons

The Administrator is further authorized, upon request of any interested person, and under such regulations as he may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States under standards provided for in section 76 of this title, or, upon request of the interested person, under other criteria approved by the Administrator for determining the kind, class, quality, or condition of grain, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 74 of this title.

[*See main edition for text of* (c) *and* (d)]

(e) Official inspection at export port locations; delegation of authority to State agencies

[*See main edition for text of* (1)]

(2) If the Administrator determines pursuant to paragraph (3) of this subsection that a State agency which was performing official inspection at an export port location under this chapter on July 1, 1976, is qualified to perform official inspection and meets the criteria in subsection (f)(1)(A) of this section, the Administrator may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as he may prescribe, and any such official inspection shall continue to be the direct responsibility of the Administrator. Any such delegation may be revoked by the Administrator, at his discretion, at any time upon notice to the State agency without opportunity for a hearing.

[*See main edition for text of* (3)]

(4) The Administrator may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Administrator determines will best meet the objectives of this chapter.

(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections

[See main edition for text of (1)]

(2) Not more than one official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

(3) Except as authorized by the Administrator, no official agency or State delegated authority pursuant to subsection (e)(2) of this section shall officially inspect under this chapter any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Administrator at the time such sample is drawn.

(4) No State or local governmental agency or person shall provide any official inspection for the purposes of this chapter except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Administrator, as provided in this section, or as provided in section 84(a) of this title.

(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies

(1) Designations of official agencies shall terminate at such time as specified by the Administrator but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsection (f) of this section.

[See main edition for text of (2) and (3); (h)]

(i) Official inspections in Canadian ports

The Administrator is authorized to cause official inspection under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection. All or specified functions of such inspections shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

(j) Fees

The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated cost of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this chapter.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, §§ 1602(a), 1604(d), 1606(d), 91 Stat. 1025, 1027, 1030.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95–113, § 1606(d), struck out reference to a determination of the quantity of sacks of grain.

Subsec. (e). Pub. L. 95–113, § 1604(d)(1), designated as par. (4) provisions, formerly forming a part of par. (2), authorizing the Administrator to provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States be inspected in the manner provided in this subsection or subsec. (f) of this section, as the Administrator determines best meets the objectives of this chapter.

Subsec. (f)(2). Pub. L. 95–113, § 1604(d)(2), substituted "official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter" for "official agency for carrying out the provisions of this chapter", struck out ", but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968" following "section 74 of this title", and redesignated other existing provisions as subsec. (f)(3) and (4).

Subsec. (f)(3). Pub. L. 95–113, § 1604(d)(2)(B), (C), redesignated a portion of existing subsec. (f)(2) as (f)(3) and in subsec. (f)(3) as so redesignated substituted "Except as authorized by the Administrator, no" for "No".

Subsec. (f)(4). Pub. L. 95–113, § 1604(d)(2)(D), redesignated a portion of existing subsec. (f)(2) as subsec. (f)(4).

Subsec. (g)(1). Pub. L. 95–113, § 1604(d)(3), substituted "prescribed in subsection (f)" for "prescribed in subsections (e) and (f)".

Subsec. (i). Pub. L. 95–113, § 1604(d)(4), added provision that all or specified functions of the inspections be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (j). Pub. L. 95–113, § 1602(a), revised the provisions relating to fees so as to remove requirement that field supervision of inspection be supported by fees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

INVESTIGATIONS AND STUDIES OF GRAIN INSPECTION AND WEIGHING IN INTERIOR OF UNITED STATES; COMPLETION OF STUDIES AND SUBMISSION OF REPORTS BY MAY 20, 1979, AND NOV. 20, 1979, RESPECTIVELY

Section 8(b) of Pub. L. 94–582, as amended by Pub. L. 95–113, title XVI, §§ 1605(a), 1607(a), Sept. 29, 1977, 91 Stat. 1029, 1031, provided that:

* * * * * *

"(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over fifty million bushels of grain are inspected in an average year, such findings to include

(A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies (which may include the application of statistical tolerances for expected variations), based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

"(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Comptroller General not later than thirty months after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title].

"(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act [this chapter] to such Committees not later than three years after the effective date of this Act [see Effective Date of 1976 Amendment note set out under section 74 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 79a, 79b, 84, 87b, 87f–1, 87h of this title.

§ 79a. Weighing authority

(a) Official weighing in accordance with prescribed regulations

The Administrator shall cause official weighing under standards or procedures provided for in section 76 of this title to be made of all grain required to be officially weighed as provided in section 77 of this title, in accordance with such regulations as the Administrator may prescribe.

(b) Official weighing or supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export elevators at export port locations

The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures provided in section 76 of this title to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export elevators at export port locations at which official inspection is provided pursuant to the provisions of this chapter, in such manner as the Administrator deems appropriate and under such regulations as the Administrator may provide.

(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided

[*See main edition for text of (1)*]

(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Service, the Administrator is authorized, with respect to export port locations, to delegate authority to perform official weighing or supervision of weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform official weighing or supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 79 of this title, except that where the term "official inspection" is used in such section it shall be deemed to refer to "official weighing" or "supervision of weighing" under this section. If such agency or person is not available to perform such weighing services, or the Administrator determines that such agency or person is not qualified to perform such weighing services, then (A) at export port locations official weighing or supervision of weighing shall be performed by official inspection personnel employed by the Service, and (B) at any other location, the Administrator is authorized to cause official weighing or supervision of weighing to be performed by official inspection personnel employed by the Service or designate any State or local governmental agency, or any person to perform official weighing or supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 79 of this title, except that where the term "official inspection" is used in such section it shall be deemed to refer to "supervision of weighing" under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 79 of this title.

(d) Official weighing in Canadian ports

The Administrator is authorized to cause official weighing under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing. All or specified functions of such weighing shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities

The Administrator is further authorized to cause official weighing or supervision of weighing under standards or procedures provided for in section 76 of this title to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as he may prescribe.

(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements

No official weighing or supervision of weighing shall be provided for the purposes of this

chapter at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Administrator that the operator (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Administrator; (2) will permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this chapter; (3) when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales in accordance with the regulations of the Administrator and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Administrator; (4) will provide all assistance needed by the Administrator for making any inspection or examination and carrying out other functions at the facility pursuant to this chapter; and (5) will comply with all other requirements of this chapter and the regulations hereunder.

(g) Official certificates as evidence

Official certificates setting out the results of official weighing or supervision of weighing, issued and not cancelled under this chapter, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

[*See main edition for text of (h)*]

(i) Unauthorized weighing prohibited

No State or local governmental agency or person other than an authorized employee of the Service shall perform official weighing or supervision of weighing for the purposes of this chapter except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Administrator as provided in this section. Not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

[*See main edition for text of (j) and (k)*]

(l) Fees

The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable, cover the costs of the Service incident to its performance of official weighing and supervision of weighing services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. Such fees shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this chapter.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1602(b), 1604(e), 1606(e), 91 Stat. 1025, 1027, 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1606(e), substituted "standards or procedures" for "standards".

Subsec. (b). Pub. L. 95-113, §§ 1604(e)(1), 1606(e), substituted "The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures" for "The Administrator is authorized to cause supervision of weighing under standards" and "other than at export elevators at export port locations" for "other than at export port locations".

Subsec. (c)(2). Pub. L. 95-113, § 1604(e)(2), made technical amendments to conform subsec. (c)(2) to the increased authority granted in subsec. (b) to cause official weighing as well as supervision of weighing at interior inspection points and corrected a typographical error in which "number" had been erroneously used for "under" in the text as originally enacted by Pub. L. 94-582.

Subsec. (d). Pub. L. 95-113, § 1604(e)(3), added requirement that all or specified functions of Canadian weighing be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (e). Pub. L. 95-113, §§ 1604(e)(4), 1606(e), substituted "under standards or procedures provided" for "under standards provided" and struck out provisions which had required that the weighing service not be provided for periods of less than a year, that the fees therefor be set separately from the fees provided for in subsec. (*l*), and that they be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing the service.

Subsec. (f)(2). Pub. L. 95-113, § 1604(e)(5)(A), substituted "permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator" for "employ only competent persons with a reputation for honesty and integrity".

Subsec. (f)(3). Pub. L. 95-113, § 1604(e)(5)(B), substituted "when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales" for "when weighing is to be done by employees of the facility, will require employees to operate the scales".

Subsec. (g). Pub. L. 95-113, § 1604(e)(6), substituted "official weighing or supervision of weighing" for "official weighing".

Subsec. (i). Pub. L. 95-113, § 1604(e)(7), (8), substituted "No State or local governmental agency" for "No State" and added provision that not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

Subsec. (*l*). Pub. L. 95-113, § 1602(b), revised the provisions relating to fees so as to remove requirement that field supervision of weighing be supported by fees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 79b. Testing of equipment

(a) Random and periodic testing at least annually; fees

The Administrator shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this chapter, to be made on a random and periodic basis, but at least annually and under such regulations as the Administrator may prescribe, as he deems necessary to assure the accuracy and integrity of such equipment. Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of such testing by employees of the Service. Such fees shall be deposited into the fund created by section 79(j) of this title.

[*See main edition for text of* (b)]

(c) Use of non-approved equipment prohibited

Notwithstanding any other provision of law, no person shall use for the purposes of this chapter any such equipment not approved by the Administrator.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, § 1604(f), 91 Stat. 1028.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1604(f)(1), (2), substituted "and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators" for "and weighing of grain located at all grain elevators" and added provisions that regulations provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of testing by employees of the Service and that the fees be deposited into the fund created by section 79(j) of this title.

Subsec. (c). Pub. L. 95-113, § 1604(f)(3), substituted "shall use for the purposes of this chapter" for "shall use".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 84. Licensing of inspectors

(a) Authorization

The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing, other than appeal weighing, of grain in the United States; (2) to authorize any competent employee of the Service to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter; (3) to contract with any person or governmental agency to perform specified sampling, laboratory testing, and similar technical functions and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter. No person shall perform any official inspection or weighing function for purposes of this chapter unless such person holds an unsuspended and unrevoked license or authorization from the Administrator under this chapter.

[*See main edition for text of* (b) *to* (d)]

(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service

The Administrator may hire (without regard to the provisions of title 5 governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on October 21, 1976) to perform functions of official inspection under this chapter and as personnel to perform supervisory weighing or official weighing functions any individual who, on October 21, 1976, was performing similar functions: *Provided*, That the Administrator determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned. The Administrator may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5.

(f) Periodic rotation of personnel

The Administrator shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Service as he deems necessary to preserve the integrity of the official inspection and weighing system provided by this chapter.

[*See main edition for text of* (g)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(g), 1606(f), 91 Stat. 1028, 1030.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95-113, § 1604(g)(1)(A), substituted "weighing, other than appeal weighing, of grain" for "weighing of grain".

Subsec. (a)(2)(B). Pub. L. 95-113, § 1604(g)(1)(B), substituted "weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports" for "weighing of grain".

Subsec. (a)(3). Pub. L. 95-113, § 1604(g)(1)(C), substituted "any person or governmental agency specified sampling, laboratory testing, and similar technical functions" for "any person to perform specified sampling and laboratory testing".

Subsec. (e). Pub. L. 95-113, § 1604(g)(2), added provisions authorizing the Administrator to compensate the personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5.

Subsec. (f). Pub. L. 95-113, § 1606(f), substituted "official inspection and weighing system" for "official inspection system".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87. Conflicts of interest

[See main edition for text of (a)]

(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stockholder; use of official inspection service; authority delegation; report to Congressional committees

[See main edition for text of (1) and (2)]

(3) Each State agency delegated official weighing authority under section 79a of this title and each State or local agency or other person designated by the Administrator under such section to perform official weighing or supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term "use of official inspection service" shall be deemed to refer to the use of the services provided under such a delegation or designation.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing or supervision of weighing, or a State or local governmental agency is designated as an official agency, the Administrator shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

(5) Notwithstanding the foregoing provisions of this subsection, the Administrator may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform official weighing or supervision of weighing except that for purposes of supervision of weighing only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, director, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Administrator makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Administrator shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, detailing the factual bases for such determination.

(c) Official agencies or State agencies not prevented from engaging in business of weighing grain

The provisions of this section shall not prevent an official agency or State agency delegated authority under this chapter from engaging in the business of weighing grain.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(h), 1606(g), 91 Stat. 1028, 1030.)

AMENDMENTS

1977—Subsec. (b)(3). Pub. L. 95-113, § 1604(h)(1), substituted "to perform official weighing or supervision of weighing" for "to perform supervision of weighing".

Subsec. (b)(4). Pub. L. 95-113, § 1606(g), substituted "official weighing or supervision of weighing" for "official weighing".

Subsec. (b)(5). Pub. L. 95-113, § 1604(h)(2), substituted "to perform official inspection or perform official weighing or supervision of weighing except that" for "to perform official inspection or perform supervision of weighing except that" and "member, director, officer" for "member, officer".

Subsec. (c). Pub. L. 95-113, § 1604(h)(3), inserted "or State agency delegated authority under this chapter" following "official agency".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87a. Records

(a) Samples of grain

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose of administration and enforcement of this chapter.

(b) Period of maintenance

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Administrator,

after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Administrator to be maintained for not more than three years in addition to the five-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this chapter.

(c) Access to records; audits

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall permit any authorized representative of the Secretary or Administrator or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Administrator shall, from time to time, perform audits of official agencies and State agencies delegated authority of this chapter in such manner and at such periodic intervals as he deems appropriate.

(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities

Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter, and permit any authorized representative of the Secretary or the Administrator, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1601, 1604(i), 91 Stat. 1024, 1029.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1604(i)(1), inserted ", every State agency delegated authority under this chapter," following "official agency".

Subsec. (b). Pub. L. 95-113, § 1604(i)(1), inserted ", every State agency delegated authority under this chapter," following "official agency".

Subsec. (c). Pub. L. 95-113, § 1604(i)(1), (2), inserted ", every State delegated authority under this chapter," following "official agency" and corrected a typographical error in Pub. L. 94-582 under which "delegate authority of this chapter" had been erroneously used instead of "delegated authority under this chapter".

Subsec. (d). Pub. L. 95-113, § 1601, substituted "shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter" for "shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain,".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87b. Prohibited acts

(a) No person shall—

[See main edition for text of (1) to (5)]

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts have been established with respect to grain by official inspection under this chapter, or that any weighing service under this chapter has been performed with respect to grain;

[See main edition for text of (7) to (10)]

(11) violate any provision of section 77; 78; 79(f)(2), (3), or (4); 79a; 79b(c); 84; 87; 87a; or 87f-1 of this title;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any such person, from observing the loading of the grain inspected under this chapter and the weighing, sampling, and inspection of such grain under conditions prescribed by the Administrator.

[See main edition for text of (b) and (c)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §§ 1604(j), 1606(h), 91 Stat. 1029, 1030.)

AMENDMENTS

1977—Subsec. (a)(6). Pub. L. 95-113, §§ 1604(j)(1), 1606(h), substituted "or condition" for "condition, or quantity" and inserted ", or that any weighing service under this chapter has been performed with respect to grain" following "official inspection under this chapter".

Subsec. (a)(11). Pub. L. 95-113, § 1604(j)(2), added references to sections 79(f)(3) and (4) and 87f-1 of this title.

Subsec. (a)(12). Pub. L. 95-113, § 1604(j)(3), substituted "weighing equipment" for "testing equipment".

Subsec. (a)(13). Pub. L. 95-113, § 1604(j)(4), substituted "financial interest in grain" for "financial interest in the grain" and "loading of the grain" for "loading of grain".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87e. General authorities

(a) Authority of Administrator

The Administrator is authorized to conduct such investigations; hold such hearings; require

such reports from any official agency, any State agency delegated authority under this chapter, licensee, or other person; and prescribe such rules, regulations, and instructions, as the Administrator deems necessary to effectuate the purposes or provisions of this chapter. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Administrator. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this chapter shall be determined by tests made in accordance with such procedures as the Administrator may adopt to effectuate the objectives of this chapter, if the relevant facts are determinable by such tests. Proceedings under section 85 of this title for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5.

(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain

The Administrator is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this chapter. The Administrator shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this chapter, and (C) any complaint regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints. The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.

[*See main edition for text of* (c) *to* (e)]

(f) Adequate personnel to meet inspection and weighing requirements

To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 74 of this title, the Administrator shall, notwithstanding any other provision of law, provide adequate personnel to meet the inspection and weighing requirements of this chapter.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, §§ 1604(k), 1606(l), 91 Stat. 1029, 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–113, § 1604(k)(1), rearranged existing provisions and added references to the installation of handling and weighing equipment and to warehouses and other grain storage or handling facilities.

Subsec. (b). Pub. L. 95–113, § 1606(l), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry".

Subsec. (f). Pub. L. 95–113, § 1604(k)(2), struck out "additional" preceding "inspection and weighing requirements".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87f-1. Registration requirements

[*See main edition for text of* (a)]

(b) Required information

(1) All persons required to register under this chapter shall submit the following information to the Administrator:

[*See main edition for text of* (2) *and* (3); (c) *to* (e)]

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, § 1604(l), 91 Stat. 1029.)

AMENDMENTS

1977—Subsec. (b)(1). Pub. L. 95–113 substituted "All persons required to register" for "All persons registered" in the provisions preceding par. (A).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87b, 87h of this title.

§ 87f-2. Reporting requirements

(a) General requirements; annual report to Congressional Committees

The Administrator shall submit a report to the committee [1] on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act; and, on December 1 of each year thereafter, the Administrator shall report to such committees regarding the effectiveness of the official inspection and weighing system under this chapter for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 74 of this title.

[1] So in original. Probably should be "Committee".

(b) Notification of Congressional Committees of complaints regarding faulty grain deliveries and cancellation of export contracts

The Administrator shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) notwithstanding the provisions of section 612c–3 of this title, within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

(c) Submission to Congressional Committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain

On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Administrator.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, §§ 1604(m), 1606(i), (j), 91 Stat. 1029, 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–113, § 1606(i), (j), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry" and "inspection and weighing" for "inspection".

Subsec. (b). Pub. L. 95–113, §§ 1604(m), 1606(i), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry" in the provisions preceding cl. (1) and, in cl. (2) substituted "notwithstanding the provisions of section 612c–3 of this title, within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation" for "within thirty days after receipt by the Administrator or the Secretary of the cancellation".

Subsec. (c). Pub. L. 95–113, § 1606(i), substituted "Committee on Agriculture, Nutrition, and Forestry" for "Committee on Agriculture and Forestry".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 87h. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary for research and development as provided in section 87e of this title; monitoring in foreign ports grain officially inspected and officially weighed under this chapter; development and issuance of rules, regulations, and instructions; improvement of official standards for grain, improvement of inspection and weighing procedures and equipment, and other activities authorized by section 76 of this title; Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain; the purchase or lease of any buildings, other facilities, or equipment necessary to carry out the provisions of this chapter; and any other expenses necessary to carry out the provisions of this chapter to the extent that financing is not obtained from the fees and sales of samples as provided for in sections 79, 79a, and 87f–1 of this title.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XVI, §§ 1602(c), 1604(n), 91 Stat. 1025, 1029.)

AMENDMENTS

1977—Pub. L. 95–113 substituted "Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain" for "those Federal administrative and supervisory costs incurred within the Service's Washington office or not directly related to the official inspection or the provision of weighing services for grain" and renumbered this section as section 19 of the United States Grain Standards Act, thereby correcting an error in the 1976 amendment of this section by Pub. L. 94–582 under which this section had inadvertently been renumbered from section 19 of the United States Grain Standards Act to section 21 thereof.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 6—INSECTICIDES AND ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

Sec.
136w–1. State primary enforcement responsibility [New].
136w–2. Failure by the State to assure enforcement of State pesticide use regulations [New].
136w–3. Identification of pests; cooperation with Department of Agriculture's program [New].
136w–4. Annual report [New].

SUBCHAPTER II—ENVIRONMENTAL PESTICIDE CONTROL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 15 sections 1261, 1459, 2052, 2602; title 21 sections 321, 346a; title 42 section 6905.

§ 136. Definitions

For purposes of this subchapter—

[*See main edition for text of* (a) *to* (d)]

(e) Certified applicator, etc.

(1) Certified applicator

The term "certified applicator" means any individual who is certified under section 136b of this title as authorized to use or supervise the use of any pesticide which is classified for restricted use. Any applicator who holds or

applies registered pesticides, or use[1] dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides under this subchapter.

[*See main edition for text of (2)*]

(3) Commercial applicator

The term "commercial applicator" means an applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

[*See main edition for text of (4); (f) to (p)*]

(q) Misbranded

(1) A pesticide is misbranded if—

[*See main edition for text of (A) to (F)*]

(G) the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 136a(d) of this title, is adequate to protect health and the environment; or

(H) in the case of a pesticide not registered in accordance with section 136a of this title and intended for export, the label does not contain, in words prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) as to render it likely to be noted by the ordinary individual under customary conditions of purchase and use, the following: "Not Registered for Use in the United States of America".

[*See main edition for text of (2); (r) to (v)*]

(w) Producer and produce

The term "producer" means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device or active ingredient used in producing a pesticide. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide or device or active ingredient used in producing a pesticide. The dilution by individuals of formulated pesticides for their own use and according to the directions on registered labels shall not of itself result in such individuals being included in the definition of "producer" for the purposes of this subchapter.

[*See main edition for text of (x) to (cc)*]

(dd) Establishment

The term "establishment" means any place where a pesticide or device or active ingredient used in producing a pesticide is produced, or held, for distribution or sale.

(ee) To use any registered pesticide in a manner inconsistent with its labeling

The term "to use any registered pesticide in a manner inconsistent with its labeling" means to use any registered pesticide in a manner not permitted by the labeling: *Provided*, That the term shall not include (1) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, (2) applying a pesticide against any target pest not specified on the labeling if the application is to the crop, animal, or site specified on the labeling, unless the Administrator has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling after the Administrator has determined that the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment, (3) employing any method of application not prohibited by the labeling, or (4) mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling: *Provided further*, That the term also shall not include any use of a pesticide in conformance with section 136c, 136p, or 136v of this title, or any use of a pesticide in a manner that the Administrator determines to be consistent with the purposes of this subchapter: *And provided further*, That after March 31, 1979, the term shall not include the use of a pesticide for agricultural or forestry purposes at a dilution less than label dosage unless before or after that date the Administrator issues a regulation or advisory opinion consistent with the study provided for in section 27(b) of the Federal Pesticide Act of 1978, which regulation or advisory opinion specifically requires the use of definite amounts of dilution.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 1, 92 Stat. 819.)

REFERENCES IN TEXT

Section 27(b) of Federal Pesticide Act of 1978, referred to in subsec. (ee), is section 27(b) of Pub. L. 95-396, Sept. 30, 1978, 92 Stat. 841, which set out as a note under section 136w-4 of this title.

AMENDMENTS

1978—Subsec. (e)(1). Pub. L. 95-396, § 1(1), added provision deeming an applicator not a seller or distributor of pesticides when providing a service of controlling pests.

Subsec. (e)(3). Pub. L. 95-396, § 1(2), substituted "an applicator" for "a certified applicator".

Subsec. (q)(1)(H). Pub. L. 95-396, § 1(3), added subsec. (q)(1)(H).

Subsec. (w). Pub. L. 95-396, § 1(4), (5), amended definition of "producer" and "produce" to include reference to active ingredient used in producing a pesticide and added provision that an individual did not become a producer when there was dilution of a pesticide for personal use according to directions on registered labels.

Subsec. (dd). Pub. L. 95-396, § 1(6), inserted "or active ingredient used in producing a pesticide".

Subsec. (ee). Pub. L. 95-396, § 1(7), added subsec. (ee).

EFFECTIVE DATE

Section 4 of Pub. L. 92-516, as amended by Pub. L. 94-140, § 4, Nov. 28, 1975, 89 Stat. 752; Pub. L. 95-396, § 28, Sept. 30, 1978, 92 Stat. 842, provided that:

"(a) Except as otherwise provided in the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter], as amended by this Act and as otherwise provided by this section, the amendments made by this Act [see Short Title notes set out hereunder] shall take effect at the close of the date of the enact-

[1] So in original. Probably should be "uses".

ment of this Act [Oct. 21, 1972], provided if regulations are necessary for the implementation of any provision that becomes effective on the date of enactment, such regulations shall be promulgated and shall become effective within 90 days from the date of enactment of this Act.

"(b) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter] and the regulations thereunder as such existed prior to the enactment of this Act shall remain in effect until superseded by the amendments made by this Act and regulations thereunder.

"(c)(1) Two years after the enactment of this Act the Administrator shall have promulgated regulations providing for the registration and classification of pesticides under the provisions of this Act and thereafter shall register all new applications under such provisions.

"(2) Any requirements that a pesticide be registered for use only by a certified applicator shall not be effective until five years from the date of enactment of this Act.

(3) A period of five years from date of enactment shall be provided for certification of applicators.

"(A) One year after the enactment of this Act the Administrator shall have prescribed the standards for the certification of applicators.

"(B) Each State desiring to certify applicators shall submit a State plan to the Administrator for the purpose provided by section 4(b).

"(C) As promptly as possible but in no event more than one year after submission of a State plan, the Administrator shall approve the State plan or disapprove it and indicate the reasons for disapproval. Consideration of plans resubmitted by States shall be expedited.

"(4) One year after the enactment of this Act the Administrator shall have promulgated and shall make effective regulations relating to the registration of establishments, permits for experimental use, and the keeping of books and records under the provisions of this Act.

[(5). Redesignated (4)]

[See main edition for text of (d) and (e)]

SHORT TITLE OF 1978 AMENDMENT

Section 29 of Pub. L. 95-396 provided that: "This Act [which enacted sections 136w-1 to 136w-4 of this title, amended sections 136 to 136f, 136h, 136j, 136l, 136o, 136q, 136r, 136u to 136w, 136x, and 136y of this title, enacted provisions set out as notes under sections 136a, 136o, and 136w-4 of this title, and amended provisions set out as a note under this section] may be cited as the 'Federal Pesticide Act of 1978'."

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136o, 136w, 136w-1 of this title.

§ 136a. Registration of pesticides

[See main edition for text of (a) and (b)]

(c) Procedure for registration

(1) Statement required

Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

[See main edition for text of (A) to (C)]

(D) except as otherwise provided in subsection (c)(2)(D) of this section, if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appear in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

(i) With respect to pesticides containing active ingredients that are initially registered under this subchapter after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitted, be considered by the Administrator to support an application by another person during a period of ten years following the date the Administrator first registers the pesticide: *Provided*, That such permission shall not be required in the case of defensive data;

(ii) except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the "applicant") within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such

arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this subchapter, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow fifteen days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

(iii) after expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under subparagraphs (D)(i) and (D)(ii) of this paragraph, the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data;

(E) the complete formula of the pesticide; and

(F) a request that the pesticide be classified for general use, for restricted use, or for both.

(2)(A) Data in support of registration

The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information under subparagraph (B) of this paragraph, he shall permit sufficient time for applicants to obtain such additional information. The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data. Except as provided by section 136h of this title, within 30 days after the Administrator registers a pesticide under this subchapter he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

(B) Additional data to support existing registration

(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that are required. Two or more registrants may agree to develop jointly, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration.

(iii) If, at the end of sixty days after advising the Administrator of their agreement to develop jointly, or share in the cost of developing, data, the registrants have not further agreed on the terms of the data development arrangement or on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such

findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator.

(iv) Notwithstanding any other provision of this subchapter, if the Administrator determines that a registrant, within the time required by the Administrator, has failed to take appropriate steps to secure the data required under this subparagraph, to participate in a procedure for reaching agreement concerning a joint data development arrangement under this subparagraph or in an arbitration proceeding as required by this subparagraph, or to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator may issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data is required. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 136d(d) of this title: *Provided,* That the only matters for resolution at that hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this subchapter. If a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this subchapter, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

(v) Any data submitted under this subparagraph shall be subject to the provisions of subsection (c)(1)(D) of this section. Whenever such data are submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.

(C) Simplified procedures

Within nine months after September 30, 1978, the Administrator shall, by regulation, prescribe simplified procedures for the registration of pesticides, which shall include the provisions of subparagraph (D) of this paragraph.

(D) Exemption

No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into an end-use product shall be required to—

(i) submit or cite data pertaining to the safety of such purchased product; or

(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection for the use of any such data.

[*See main edition for text of (3) and (4)*]

(5) Approval of registration

The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d) of this section—

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of this subchapter;

(C) it will perform its intended function without unreasonable adverse effects on the environment; and

(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other. In considering an application for the registration of a pesticide, the Administrator may waive data requirements pertaining to efficacy, in which event the Administrator may register the pesticide without determining that the pesticide's composition is such as to warrant proposed claims of efficacy. If a pesticide is found to be efficacious by any State under section 136v(c) of this title, a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.

[*See main edition for text of (6)*]

(7) Registration under special circumstances

Notwithstanding the provisions of subsection (c)(5) of this section—

(A) The Administrator may conditionally register or amend the registration of a pesticide if the Administrator determines that (i) the pesticide and proposed use are identical or substantially similar to any currently registered pesticide and use thereof, or differ only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii)

approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: *Provided,* That, if the applicant is unable to submit an item of data because it has not yet been generated, the Administrator may register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this subchapter.

(B) The Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure enumerated in regulations issued under this subchapter, and during the pendency of any risk-benefit evaluation initiated by such notice, if (I) the additional use of such pesticide involves a major food or feed crop, or (II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, there is available an effective alternative pesticide that does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under subsection (c)(5) of this section: *Provided,* That, if the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, the Administrator may amend the registration under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this subchapter.

(C) The Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk criteria enumerated in regulations issued under this subchapter, and on such other conditions as the Administrator may prescribe: *Provided,* That a conditional registration under this subparagraph shall be granted only if the Administrator determines that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

(8) Interim administrative review

Notwithstanding any other provision of this subchapter, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this subchapter, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment. Notice of the definition of the terms "validated test" and "other significant evidence" as used herein shall be published by the Administrator in the Federal Register.

(d) Classification of pesticides

(1) Classification for general use, restricted use, or both

(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use, provided that if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. Pesticide uses may be classified by regulation on the initial classification, and registered pesticides may be classified prior to reregistration. If some of the uses of the pesticide are classified for general use, and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses: *Provided, however,* That the Administrator may require that its packaging and labeling for restricted uses shall be clearly distinguishable from its packaging and labeling for general uses.

[*See main edition for text of* (B) *and* (C)]

(2) Change in classification

If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent unreasonable adverse effects on the environment, he shall notify the registrant of such pesticide of such determi-

nation at least forty-five days before making the change and shall publish the proposed change in the Federal Register. The registrant, or other interested person with the concurrence of the registrant, may seek relief from such determination under section 136d(b) of this title.

(3) Change in classification from restricted use to general use

The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall set out the basis for the registrant's position that restricted use classification is unnecessary because classification of the pesticide for general use would not cause unreasonable adverse effects on the environment. The Administrator, within sixty days after receiving such petition, shall notify the registrant whether the petition has been granted or denied. Any denial shall contain an explanation therefor and any such denial shall be subject to judicial review under section 136n of this title.

[See main edition for text of (e) and (f)]

(g) Reregistration of Pesticides

The Administrator shall accomplish the reregistration of all pesticides in the most expeditious manner practicable: *Provided,* That, to the extent appropriate, any pesticide that results in a postharvest residue in or on food or feed crops shall be given priority in the reregistration process.

(As amended Sept. 30, 1978, Pub. L. 95-396, §§ 2(a), 3-8, 92 Stat. 820, 824-827.)

AMENDMENTS

1978—Subsec. (c)(1)(D). Pub. L. 95-396, § 2(a)(1) added subsec. (c)(1)(D), and deleted prior provisions which required the applicant for registration of a pesticide to file with the Administrator a statement containing "if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted on or after January 1, 1970, in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration unless such other applicant shall have first offered to pay reasonable compensation for producing the test data to be relied upon and such data is not protected from disclosure by section 136h(b) of this title. This provision with regard to compensation for producing the test data to be relied upon shall apply with respect to all applications for registration or reregistration submitted on or after October 21, 1972. If the parties cannot agree on the amount and method of payment, the Administrator shall make such determination and may fix such other terms and conditions as may be reasonable under the circumstances. The Administrator's determination shall be made on the record after notice and opportunity for hearing. If either party does not agree with said determination, he may, within thirty days, take an appeal to the Federal district court for the district in which he resides with respect to either the amount of the payment or the terms of payment, or both. Registration shall not be delayed pending the determination of reasonable compensation between the applicants, by the Administrator or by the court."

Subsec. (c)(2). Pub. L. 95-396, §§ 2(a)(2)(A) to (D), 3, 4 designated existing provisions as subpar. (A) and, as so designated, inserted in second sentence "under subparagraph (B) of this paragraph" following "kind of information", deleted from introductory text of third sentence "subsection (c)(1)(D) of this section and" following "Except as provided by", and inserted provisions relating to establishment of standards for data requirements for registration of pesticides with respect to minor uses and consideration of economic factors in development of standards and cost of development and added subpars. (B) to (D).

Subsec. (c)(5). Pub. L. 95-396, § 5, provided for waiver of data requirements pertaining to efficacy.

Subsec. (c)(7), (8). Pub. L. 95-396, § 6, added subsec. (c)(7) and (8).

Subsec. (d)(1)(A). Pub. L. 95-396, § 7(1), authorized classification of pesticide uses by regulation on the initial classification and registered pesticides prior to reregistration.

Subsec. (d)(2). Pub. L. 95-396, § 7(2), substituted "forty-five days" for "30 days".

Subsec. (d)(3). Pub. L. 95-396, § 7(3), added subsec. (d)(3).

Subsec. (g). Pub. L. 95-396, § 8, added subsec. (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(b) of Pub. L. 95-396 provided that: "The amendment to section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act [subsec. (c)(1)(D) of this section] made by [subsec. (a)(1) of] this section shall apply with respect to all applications for registration approved after the date of enactment of this Act [Sept. 30, 1978]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c, 136d, 136h, 136j, 136k, 136l, 136m, 136o, 136v, 136w-4 of this title.

§ 136b. Use of restricted use pesticides; certified applicators

(a) Certification procedure

(1) Federal certification

In any State for which a State plan for applicator certification has not been approved by the Administrator, the Administrator, in consultation with the Governor of such State, shall conduct a program for the certification of applicators of pesticides: *Provided,* That such program shall conform to the requirements imposed upon the States under the provisions of subsection (a)(2) of this section and shall not require private applicators to take any examination to establish competency in the use of pesticides. Prior to the implementation of the program, the Administrator shall publish in the Federal Register for review and comment a summary of the Federal plan for applicator certification and shall make generally available within the State copies of the plan. The Administrator shall hold public hearings at one or more locations within the State if so requested by the Governor of such State during the thirty days following publication of the Federal Register notice inviting comment on the Federal plan. The hearings shall be held within thirty days following receipt of the request from the Governor. In any State in which the Administrator conducts a certification program, the Administrator may require any person engaging in the commercial application, sale, offering for sale, holding for sale, or distribution of any pesticide one or more uses of which have been classified for restricted use to

maintain such records and submit such reports concerning the commercial application, sale, or distribution of such pesticide as the Administrator may by regulation prescribe. Subject to paragraph (2), the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of the pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification: *Provided, however,* That the certification standard for a private applicator shall, under a State plan submitted for approval, be deemed fulfilled by his completing a certification form. The Administrator shall further assure that such form contains adequate information and affirmations to carry out the intent of this subchapter, and may include in the form an affirmation that the private applicator has completed a training program approved by the Administrator so long as the program does not require the private applicator to take, pursuant to a requirement prescribed by the Administrator, any examination to establish competency in the use of the pesticide. The Administrator may require any pesticide dealer participating in a certification program to be licensed under a State licensing program approved by him.

[*See main edition for text of* (2), (b) *and* (c)]

(As amended Sept. 30, 1978, Pub. L. 95-396, § 9, 92 Stat. 827.)

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-396 required that, in any State without a State plan for applicator certification approved by the Administrator, the Administrator, in consultation with the Governor of the State, shall conduct a program for the certification of applicators of pesticides under a Federal plan for applicator certification, and also that in such a State records be maintained and reports submitted by persons engaged in commercial application, sale or distribution of pesticides classified for restricted use.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136c, 136w-1 of this title.

§ 136c. Experimental use permits

(a) Issuance

Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator shall review the application. After completion of the review, but not later than one hundred and twenty days after receipt of the application and all required supporting data, the Administrator shall either issue the permit or notify the applicant of the Administrator's determination not to issue the permit and the reasons therefor. The applicant may correct the application or request a waiver of the conditions for such permit within thirty days of receipt by the applicant of such notification. The Administrator may issue an experimental use permit only if the Administrator determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 136a of this title. An application for an experimental use permit may be filed at any time.

[*See main edition for text of* (b) *to* (e)]

(f) State issuance of permits

Notwithstanding the foregoing provisions of this section, the Administrator shall, under such terms and conditions as he may by regulations prescribe, authorize any State to issue an experimental use permit for a pesticide. All provisions of section 136b of this title relating to State plans shall apply with equal force to a State plan for the issuance of experimental use permits under this section.

[*See main edition for text of* (g)]

(As amended Sept. 30, 1978, Pub. L. 95-396, § 10, 92 Stat. 828.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-396, § 10(1), provided for review of application, issuance or nonissuance of experimental use permit within prescribed period including reasons for denial, correction of application, and waiver of conditions and substituted provision for filing an application for experimental use permit at any time for prior provision for filing at the time of or before or after an application for registration is filed.

Subsec. (f). Pub. L. 95-396, § 10(2), substituted in first sentence "shall" for "may" where first appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136 of this title.

§ 136d. Administrative review; suspension

[*See main edition for text of* (a)]

(b) Cancellation and change in classification

If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted does not comply with the provisions of this subchapter or, when used in accordance with widespread and commonly recognized practice, generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of his intent either—

(1) to cancel its registration or to change its classification together with the reasons (including the factual basis) for his action, or

(2) to hold a hearing to determine whether or not its registration should be canceled or its classification changed.

Such notice shall be sent to the registrant and made public. In determining whether to issue any such notice, the Administrator shall include among those factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days prior to sending such notice to the registrant or making public such notice, whichever occurs first, the Administrator shall provide the Secretary of Agriculture with a copy of such notice and an analysis of such impact on the agricultural economy. If the Secretary comments in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator shall publish in the Federal Register (with the notice) the com-

ments of the Secretary and the response of the Administrator with regard to the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the notice and analysis within 30 days after receiving them, the Administrator may notify the registrant and make public the notice at any time after such 30-day period notwithstanding the foregoing 60-day time requirement. The time requirements imposed by the preceding 3 sentences may be waived or modified to the extent agreed upon by the Administrator and the Secretary. Notwithstanding any other provision of this subsection and section 136w(d) of this title, in the event that the Administrator determines that suspension of a pesticide registration is necessary to prevent an imminent hazard to human health, then upon such a finding the Administrator may waive the requirement of notice to and consultation with the Secretary of Agriculture pursuant to this subsection and of submission to the Scientific Advisory Panel pursuant to section 136w(d) of this title and proceed in accordance with subsection (c) of this section. The proposed action shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice. In the event a hearing is held pursuant to such a request or to the Administrator's determination under paragraph (2), a decision pertaining to registration or classification issued after completion of such hearing shall be final. In taking any final action under this subsection, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and shall include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and he shall publish in the Federal Register an analysis of such impact.

(c) Suspension

[*See main edition for text of (1)*]

(2) Expedite hearing

If no request for a hearing is submitted to the Agency within five days of the registrant's receipt of the notification provided for by paragraph (1), the suspension order may be issued and shall take effect and shall not be reviewable by a court. If a hearing is requested, it shall commence within five days of the receipt of the request for such hearing unless the registrant and the Agency agree that it shall commence at a later time. The hearing shall be held in accordance with the provisions of subchapter II of chapter 5 of title 5, except that the presiding officer need not be a certified administrative law judge. The presiding officer shall have ten days from the conclusion of the presentation of evidence to submit recommended findings and conclusions to the Administrator, who shall then have seven days to render a final order on the issue of suspension.

[*See main edition for text of (3) and (4); (d)*]

(e) Conditional registration

(1) The Administrator shall issue a notice of intent to cancel a registration issued under section 136a(c)(7) of this title if (A) the Administrator, at any time during the period provided for satisfaction of any condition imposed, determines that the registrant has failed to initiate and pursue appropriate action toward fulfilling any condition imposed, or (B) at the end of the period provided for satisfaction of any condition imposed, that condition has not been met: *Provided,* That the Administrator may permit the continued sale and use of existing stocks of a pesticide whose conditional registration has been canceled under this subsection to such extent, under such conditions, and for such uses as the Administrator may specify if the Administrator determines that such sale or use is not inconsistent with the purposes of this subchapter and will not have unreasonable adverse effects on the environment.

(2) A cancellation proposed under this subsection shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to cancel unless during that time a request for hearing is made by a person adversely affected by the notice. If a hearing is requested, a hearing shall be conducted under subsection (d) of this section: *Provided,* That the only matters for resolution at that hearing shall be whether the registrant has initiated and pursued appropriate action to comply with the condition or conditions within the time provided or whether the condition or conditions have been satisfied within the time provided, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this subchapter. A decision after completion of such hearing shall be final. Notwithstanding any other provision of this section, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing.

(f) Judicial review

Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 136n of this title.

(As amended Mar. 27, 1978, Pub. L. 95-251, § 2(a)(2), 92 Stat. 183; Sept. 30, 1978, Pub. L. 95-396, §§ 11, 12, 92 Stat. 828.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-396, § 11, required the Administrator, in taking any final action under subsec. (b), to consider restricting a pesticide's use or uses as an alternative to cancellation and to fully explain the reasons for the restrictions.

Subsec. (c)(2). Pub. L. 95-251 substituted "administrative law judge" for "hearing examiner".

Subsec. (e). Pub. L. 95-396, § 12, added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 95-396, § 12, redesignated former subsec. (e) as (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136o of this title.

§ 136e. Registration of establishments

(a) Requirement

No person shall produce any pesticide subject to this subchapter or active ingredient used in producing a pesticide subject to this subchapter in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

[See main edition for text of (b)]

(c) Information required

(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and, if applicable, active ingredients used in producing pesticides—

(A) which he is currently producing;

(B) which he has produced during the past year; and

(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

[See main edition for text of (2)]

(d) Confidential records and information

Any information submitted to the Administrator pursuant to subsection (c) of this section other than the names of the pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment shall be considered confidential and shall be subject to the provisions of section 136h of this title.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 13, 92 Stat. 829.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-396, § 13(1), made requirement of registration applicable to production of active ingredient used in producing a pesticide subject to this subchapter.

Subsec. (c)(1). Pub. L. 95-396, § 13(2), required information pertaining to types and amounts of active ingredients used in producing pesticides where applicable.

Subsec. (d). Pub. L. 95-396, § 13(3), considered names of pesticides or active ingredients used in producing pesticides produced, sold, or distributed at an establishment as not being confidential information.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136j, 136o, 136w of this title.

§ 136f. Books and records

[See main edition for text of (a)]

(b) Inspection

For the purposes of enforcing the provisions of this subchapter, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this subchapter, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data; and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed). Before undertaking an inspection under this subsection, the officer or employee must present to the owner, operator, or agent in charge of the establishment or other place where pesticides or devices are held for distribution or sale, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 14, 92 Stat. 829.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-396 required in connection with inspection of records and information the presentation of credentials, written statement as to the reason for inspection, including statement of suspected violation, or an alternative but sufficient reason, and commencement and completion of inspection with reasonable promptness.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136j, 136o, 136w-1 of this title.

§ 136g. Inspection of establishments, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136j, 136w-1 of this title.

§ 136h. Protection of trade secrets and other information

[See main edition for text of (a)]

(b) Disclosure

Notwithstanding any other provision of this subchapter and subject to the limitations in subsections (d) and (e) of this section, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this subchapter, information relating to formulas of products acquired by authorization of this subchapter may

be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

[*See main edition for text of* (c)]

(d) Limitations

(1) All information concerning the objectives, methodology, results, or significance of any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including, but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public: *Provided,* That the use of such data for any registration purpose shall be governed by section 136a of this title: *Provided further,* That this paragraph does not authorize the disclosure of any information that—

(A) discloses manufacturing or quality control processes,

(B) discloses the details of any methods for testing, detecting, or measuring the quantity of any deliberately added inert ingredient of a pesticide, or

(C) discloses the identity or percentage quantity of any deliberately added inert ingredient of a pesticide,

unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

(2) Information concerning production, distribution, sale, or inventories of a pesticide that is otherwise entitled to confidential treatment under subsection (b) of this section may be publicly disclosed in connection with a public proceeding to determine whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment, if the Administrator determines that such disclosure is necessary in the public interest.

(3) If the Administrator proposes to disclose information described in clause (A), (B), or (C) of paragraph (1) or in paragraph (2) of this subsection, the Administrator shall notify by certified mail the submitter of such information of the intent to release such information. The Administrator may not release such information, without the submitter's consent, until thirty days after the submitter has been furnished such notice: *Provided,* That where the Administrator finds that disclosure of information described in clause (A), (B), or (C) of paragraph (1) of this subsection is necessary to avoid or lessen an imminent and substantial risk of injury to the public health, the Administrator may set such shorter period of notice (but not less than ten days) and such method of notice as the Administrator finds appropriate. During such period the data submitter may institute an action in an appropriate district court to enjoin or limit the proposed disclosure. The court shall give expedited consideration to any such action. The court may enjoin disclosure, or limit the disclosure or the parties to whom disclosure shall be made, to the extent that—

(A) in the case of information described in clause (A), (B), or (C) of paragraph (1) of this subsection, the proposed disclosure is not required to protect against an unreasonable risk of injury to health or the environment; or

(B) in the case of information described in paragraph (2) of this subsection, the public interest in availability of the information in the public proceeding does not outweigh the interests in preserving the confidentiality of the information.

(e) Disclosure to contractors

Information otherwise protected from disclosure to the public under subsection (b) of this section may be disclosed to contractors with the United States and employees of such contractors if, in the opinion of the Administrator, such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States for the performance of work in connection with this subchapter and under such conditions as the Administrator may specify. The Administrator shall require as a condition to the disclosure of information under this subsection that the person receiving it take such security precautions respecting the information as the Administrator shall by regulation prescribe.

(f) Penalty for disclosure by federal employees

(1) Any officer or employee of the United States or former officer or employee of the United States who, by virtue of such employment or official position, has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (b) of this section, and who, knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than $10,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this subchapter. Nothing in this subchapter shall preempt any civil remedy under State or Federal law for wrongful disclosure of trade secrets.

(2) For the purposes of this section, any contractor with the United States who is furnished information as authorized by subsection (e) of this section, or any employee of any such contractor, shall be considered to be an employee of the United States.

(g) Disclosure to foreign and multinational pesticide producers

(1) The Administrator shall not knowingly disclose information submitted by an applicant or registrant under this subchapter to any employee or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or to any other person who intends to deliver such data to such foreign or multinational business or entity unless the applicant or registrant has consented to such disclosure. The Administra-

tor shall require an affirmation from any person who intends to inspect data that such person does not seek access to the data for purposes of delivering it or offering it for sale to any such business or entity or its agents or employees and will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employees. Notwithstanding any other provision of this subsection, the Administrator may disclose information to any person in connection with a public proceeding under law or regulation, subject to restrictions on the availability of information contained elsewhere in this subchapter, which information is relevant to a determination by the Administrator with respect to whether a pesticide, or any ingredient of a pesticide, causes unreasonable adverse effects on health or the environment.

(2) The Administrator shall maintain records of the names of persons to whom data are disclosed under this subsection and the persons or organizations they represent and shall inform the applicant or registrant of the names and affiliations of such persons.

(3) Section 1001 of title 18 shall apply to any affirmation made under paragraph (1) of this subsection.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 15, 92 Stat. 829.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-396, § 15(1), made disclosure of information by the Administrator subject to the limitations of subsecs. (d) and (e) of this section.

Subsecs. (d) to (g). Pub. L. 95-396, § 15(2), added subsecs. (d) to (g).

§ 136j. Unlawful acts

(a) In general

[*See main edition for text of (1)*]

(2) It shall be unlawful for any person—

[*See main edition for text of (A) to (E)*]

(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 136a(d) of this title and any regulations thereunder: *Provided*, That it shall not be unlawful to sell, under regulations issued by the Administrator, a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator;

[*See main edition for text of (G) to (P); (b)*]

(As amended Sept. 30, 1978, Pub. L. 95-396, § 16, 92 Stat. 832.)

AMENDMENTS

1978—Subsec. (a)(2)(F). Pub. L. 95-396 enacted proviso exempting from prohibition the sale, under regulations issued by the Administrator, of a restricted use pesticide to a person who is not a certified applicator for application by a certified applicator.

§ 136l. Penalties

(a) Civil penalties

[*See main edition for text of (1)*]

(2) Private applicator

Any private applicator or other person not included in paragraph (1) who violates any provision of this subchapter subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense: *Provided*, That any applicator not included under paragraph (1) of this subsection who holds or applies registered pesticides, or use dilutions of registered pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and who violates any provision of this subchapter may be assessed a civil penalty by the Administrator of not more than $500 for the first offense nor more than $1,000 for each subsequent offense.

(3) Hearing

No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged.

(4) Determination of penalty

In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that the violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty.

(5) References to Attorney General

In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 17, 92 Stat. 832.)

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-396, § 17(1), authorized assessment of a civil penalty of not more than $500 for a first offense and not more than $1,000 for each subsequent offense against any applicator providing a service of controlling pests for violations of this subchapter.

Subsec. (a)(3). Pub. L. 95-396, § 17(2), struck out provision respecting certain considerations when determining the amount of the penalty, now covered in subsec. (a)(4).

Subsec. (a)(4). Pub. L. 95-396, § 17(4), reenacted second sentence of subsec. (a)(3) as subsec. (a)(4) and authorized the Administrator to issue a warning in lieu of assessing a penalty. Former subsec. (a) (4) redesignated (5).

Subsec. (a)(5). Pub. L. 95-396, § 17(3), redesignated former subsec. (a) (4) as (5).

§ 136n. Administrative procedure; judicial review

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136a, 136d of this title.

§ 136o. Imports and exports

(a) Pesticides and devices intended for export

Notwithstanding any other provision of this subchapter, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this subchapter—

(1) when prepared or packed according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 136 (p), (q)(1) (A), (C), (D), (E), (G), and (H), 136(q)(2) (A), (B), (C) (i) and (iii), and (D), 136e, and 136f of this title; and

(2) in the case of any pesticide other than a pesticide registered under section 136a or sold under section 136d(a)(1) of this title, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under this subchapter. A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.

(b) Cancellation notices furnished to foreign governments

Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 136a of this title and that could be used in lieu of such pesticide.

[*See main edition for text of* (c) *to* (e)]

(As amended Sept. 30, 1978, Pub. L. 95-396, § 18(a), 92 Stat. 833.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-396, § 18(a)(1), amended subsec. (a) generally.

Subsec. (b). Pub. L. 95-396, § 18(a)(2), added last sentence relating to information to be included in the notification.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 18(b) of Pub. L. 95-396 provided "The amendment made by subsection (a)(1) of this section [amending subsec. (a) of this section] shall become effective one hundred and eighty days after the date of enactment of this Act [Sept. 30, 1978].

§ 136p. Exemption of Federal agencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136 of this title.

§ 136q. Disposal and transportation

[*See main edition for text of* (a) *and* (b)]

(c) Provisions for unused quantities

Notification of cancellation of any pesticide shall include specific provisions for the disposal of the unused quantities of such pesticide.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 19, 92 Stat. 833.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-396 added subsec. (c).

§ 136r. Research and monitoring

(a) Research

The Administrator shall undertake research including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this subchapter, and he shall conduct research into integrated pest management in coordination with the Secretary of Agriculture. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

(b) National monitoring plan

The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

(c) Monitoring

The Administrator shall undertake such monitoring activities, including, but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this subchapter and of the national pesticide monitoring plan. The Administrator shall establish procedures for the monitoring of man and animals and their environment for incidental[1] pesticide exposure, including, but not limited to, the quantification of incidental human and environmental pesticide pollution and the secular trends thereof, and identification of the sources of contamination and their relationship to human and environmental effects. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 20, 92 Stat. 834.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-396, § 20(1), substituted in first sentence "shall conduct research into integrated pest management in coordination with the Secretary of Agriculture" for "shall give priority to research to develop biologically integrated alternatives for pest control."

Subsec. (c). Pub. L. 95-396, § 20(2), added provision requiring establishment of monitoring procedures and the carrying out of the activities in cooperation with other Federal, State, and local agencies.

§ 136u. State cooperation, aid, and training

(a) Cooperative agreements

The Administrator may enter into cooperative agreements with States and Indian tribes—

[1] So in original. Probably should read "incidental".

(1) to delegate to any State or Indian tribe the authority to cooperate in the enforcement of this subchapter through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperate in the enforcement of this subchapter, and to assist States and Indian tribes in implementing cooperative enforcement programs through grants-in-aid; and

(2) to assist States in developing and administering State programs, and Indian tribes that enter into cooperative agreements, to train and certify applicators consistent with the standards the Administrator prescribes.

Effective with the fiscal year beginning October 1, 1978, there are authorized to be appropriated annually such funds as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed to under such cooperative agreements, of conducting training and certification programs during such fiscal year. If funds sufficient to pay 50 percent of the costs for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

(b) Contracts for training

In addition, the Administrator may enter into contracts with Federal, State, or Indian tribal agencies for the purpose of encouraging the training of certified applicators.

(c) Information and education

The Administrator shall, in cooperation with the Secretary of Agriculture, use the services of the cooperative State extension services to inform and educate pesticide users about accepted uses and other regulations made under this subchapter.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 21, 92 Stat. 834.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-396 extended provisions to Indian tribes, authorized annual appropriation of funds for training and certification programs, and required proportionate reduction of shares in the allocation of available funds when appropriations do not cover 50 percent of the annual costs.

Subsec. (b). Pub. L. 95-396 authorized contracts with Indian tribal agencies.

Subsec. (c). Pub. L. 95-396 substituted "shall" for "may", substituted "use" for "utilize", and "to inform and educate pesticide users about accepted uses and other regulations" for "for informing farmers of accepted uses and other regulations."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136b, 136w-1 of this title.

§ 136v. Authority of states

(a) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this subchapter.

(b) Such State shall not impose or continue in effect any requirements for labeling or packaging in addition to or different from those required under this subchapter.

(c)(1) A State may provide registration for additional uses of federally registered pesticides formulated for distribution and use within that State to meet special local needs in accord with the purposes of this subchapter and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 136a of this title for all purposes of this subchapter, but shall authorize distribution and use only within such State.

(2) A registration issued by a State under this subsection shall not be effective for more than ninety days if disapproved by the Administrator within that period. Prior to disapproval, the Administrator shall, except as provided in paragraph (3) of this subsection, advise the State of the Administrator's intention to disapprove and the reasons therefor, and provide the State time to respond. The Administrator shall not prohibit or disapprove a registration issued by a State under this subsection (A) on the basis of lack of essentiality of a pesticide or (B) except as provided in paragraph (3) of this subsection, if its composition and use patterns are similar to those of a federally registered pesticide.

(3) In no instance may a State issue a registration for a food or feed use unless there exists a tolerance or exemption under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] that permits the residues of the pesticides on the food or feed. If the Administrator determines that a registration issued by a State is inconsistent with the Federal Food, Drug, and Cosmetic Act, or the use of, a pesticide under a registration issued by a State constitutes an imminent hazard, the Administrator may immediately disapprove the registration.

(4) If the Administrator finds, in accordance with standards set forth in regulations issued under section 136w of this title, that a State is not capable of exercising adequate controls to assure that State registration under this section will be in accord with the purposes of this subchapter or has failed to exercise adequate controls, the Administrator may suspend the authority of the State to register pesticides until such time as the Administrator is satisfied that the State can and will exercise adequate controls. Prior to any such suspension, the Administrator shall advise the State of the Administrator's intention to suspend and the reasons therefor and provide the State time to respond.

(As amended Sept. 30, 1978, Pub. L. 95-396, § 22, 92 Stat. 835.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(3), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-396 inserted "federally registered" preceding "pesticide or device".

Subsec. (b). Pub. L. 95-396 substituted "labeling or packaging" and "required under" for "labeling and packaging" and "required pursuant to".

Subsec. (c)(1). Pub. L. 95-396 incorporated existing text in provisions designated subsec. (c)(1) and substi-

tuted "registration for additional uses of federally registered pesticides" for "registration for pesticides."

Subsec. (c)(2). Pub. L. 95-396 incorporated existing text in provisions designated subsec. (c)(2), conditioned disapproval of registration on communication of intention to disapprove and reasons for disapproval and provision for time to respond, and restricted authority of Administrator to prohibit or disapprove a State registration.

Subsec. (c)(3). Pub. L. 95-396 added subsec. (c)(3).

Subsec. (c)(4). Pub. L. 95-396 incorporated existing text in provisions designated subsec. (c)(4) and authorized suspension of registration authority of the State based on findings of inability or failure to exercise adequate controls following an indication of intention to suspend and reasons for the suspension and provision for time to respond.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136a of this title.

§ 136w. Authority of Administrator

(a) Regulations

(1) Authorization

The Administrator is authorized, in accordance with the procedure described in paragraph (2), to prescribe regulations to carry out the provisions of this subchapter. Such regulations shall take into account the difference in concept and usage between various classes of pesticides and differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.

(2) Procedure

[See main edition for text of (A)]

(B) Final regulations

At least 30 days prior to signing any regulation in final form for publication in the Federal Register, the Administrator shall provide the Secretary of Agriculture with a copy of such regulation. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator regarding the regulation within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement. In taking any final action under this subsection, the Administrator shall include among those factors to be taken into account the effect of the regulation on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy, and the Administrator shall publish in the Federal Register an analysis of such effect.

[See main edition for text of (C) and (D), (3); (b) and (c)]

(d) Scientific advisory panel

The Administrator shall submit to an advisory panel for comment as to the impact on health and the environment of the action proposed in notices of intent issued under section 136d(b) of this title and of the proposed and final form of regulations issued under subsection (a) of this section within the same time periods as provided for the comments of the Secretary of Agriculture under such section 136d(b) and subsection (a) of this section. The time requirements for notices of intent and proposed and final forms of regulation may not be modified or waived unless in addition to meeting the requirements of section 136d(b) of this title or subsection (a) of this section, as applicable, the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver. The Administrator shall also solicit from the advisory panel comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out the provisions of this subchapter. The comments, evaluations, and recommendations of the advisory panel and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections. The chairman of the advisory panel, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full advisory panel in expediting and preparing its evaluations, comments, and recommendations. The panel referred to in this subsection shall consist of seven members appointed by the Administrator from a list of 12 nominees, six nominated by the National Institutes of Health, and six by the National Science Foundation. The Administrator may require such information from the nominees to the advisory panel as he deems necessary, and he shall publish in the Federal Register the name, address, and professional affiliations of each nominee. Each member of the panel shall receive per diem compensation at a rate not in excess of that fixed for GS-18 of the General Schedule as may be determined by the Administrator, except that any such member who holds another office of position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this subsection. In order to assure the objectivity of the advisory panel, the Administrator shall promulgate regulations regarding conflicts of interest with respect to the members of the panel. The advisory panel established under this subsection shall terminate September 30, 1981. In performing the functions assigned by this subchapter, the panel shall consult and coordinate its activities with the Science Advisory Board established under the Environmental Research, Development,

and Demonstration Authorization Act of 1978 [42 U.S.C. 4365].

(As amended Sept. 30, 1978, Pub. L. 95-396, § 23, 92 Stat. 836.)

REFERENCES IN TEXT

The Environmental Research, Development, and Demonstration Authorization Act of 1978, referred to in subsec. (d), is Pub. L. 95-155, Nov. 8, 1977, 91 Stat. 1257, as amended. Provisions of the Act establishing the Science Advisory Board are classified to section 4365 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-396, § 23(1), required the regulations to take into account differences in environmental risk and the appropriate data for evaluating such risk between agricultural and nonagricultural pesticides.

Subsec. (a)(2)(B). Pub. L. 95-396, § 23(2), required the Administrator, before taking any final action, to consider certain factors bearing on the agricultural economy and to publish an analysis of the effect in the Federal Register.

Subsec. (d). Pub. L. 95-396, § 23(3), (4), required the Administrator to solicit operating guidelines from the scientific advisory panel to improve scientific analyses made by personnel of the Environmental Protection Agency that lead to decisions by the Administrator in carrying out this subchapter; extended requirement of publication in the Federal Register to evaluations and recommendations of the advisory panel; authorized creation of temporary subpanels on specific projects to assist in accelerating the work of the advisory panel; set forth Sept. 30, 1981, as the termination date of the advisory panel; and required the panel to consult and coordinate its activities with the Science Advisory Board established under section 4365 of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 136, 136d, 136j, 136s, 136v of this title; title 42 section 4365.

§ 136w-1. State primary enforcement responsibility

(a) For the purposes of this subchapter, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

(1) has adopted adequate pesticide use laws and regulations; *Provided*, That the Administrator may not require a State to have pesticide use laws that are more stringent than this subchapter;

(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and

(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.

(b) Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 136u of this title for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 136b of this title that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under section 136b of this title in effect on September 30, 1978, not later than six months after that date.

(c) The Administrator shall have primary enforcement responsibility for those States that do not have primary enforcement responsibility under this subchapter. Notwithstanding the provisions of section 136(e)(1) of this title, during any period when the Administrator has such enforcement responsibility, section 136f(b) of this title shall apply to the books and records of commercial applicators and to any applicator who holds or applies pesticides, or use dilutions of pesticides, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served, and section 136g(a) of this title shall apply to the establishment or other place where pesticides or devices are held for application by such persons with respect to pesticides or devices held for such application.

(June 25, 1947, ch. 125, § 26, as added Sept. 30, 1978, Pub. L. 95-396, § 24(2), 92 Stat. 836.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 136w-2 of this title.

§ 136w-2. Failure by the State to assure enforcement of State pesticide use regulations

(a) Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this subchapter, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this subchapter. If, within thirty days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint or information to the extent authorized under this subchapter.

(b) Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

(c) Neither section 136w-1 of this title nor this section shall limit the authority of the Administrator to enforce this subchapter, where the Administrator determines that emergency conditions exist that require immediate action on the part of the Administrator and the State authority is unwilling or unable adequately to respond to the emergency.

(June 25, 1947, ch. 125, § 27, as added Sept. 30, 1978, Pub. L. 95-396, § 24(2), 92 Stat. 837.)

§ 136w–3. Identification of pests; cooperation with Department of Agriculture's program

The Administrator, in coordination with the Secretary of Agriculture, shall identify those pests that must be brought under control. The Administrator shall also coordinate and cooperate with the Secretary of Agriculture's research and implementation programs to develop and improve the safe use and effectiveness of chemical, biological, and alternative methods to combat and control pests that reduce the quality and economical production and distribution of agricultural products to domestic and foreign consumers.

(June 25, 1947, ch. 125, § 28, as added Sept. 30, 1978, Pub. L. 95–396, § 24(2), 92 Stat. 838.)

§ 136w–4. Annual report

The Administrator shall submit an annual report to Congress before February 16 of each year and the first report shall be due February 15, 1979. The report shall include the total number of applications for conditional registration under sections 136a(c)(7)(B) and 136a(c)(7)(C) of this title that were filed during the immediately preceding fiscal year, and, with respect to those applications approved, the Administrator shall report the Administrator's findings in each case, the conditions imposed and any modification of such conditions in each case, and the quantities produced of such pesticides.

(June 25, 1947, ch. 125, § 29, as added Sept. 30, 1978, Pub. L. 95–396, § 24(2), 92 Stat. 838.)

STUDIES; REPORTS AND RECOMMENDATIONS TO CONGRESSIONAL COMMITTEES

Section 27 of Pub. L. 95-396 provided that:

"(a) The Administrator of the Environmental Protection Agency shall perform a study examining the feasibility of assessing and collecting fees from persons applying to register, or amend the registration of, pesticides to cover the costs incurred by the Environmental Protection Agency in processing such applications under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [this subchapter]. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act [Sept. 30, 1978].

"(b) The Administrator, in cooperation with the Secretary of Agriculture, and after consultation with appropriate State officials, shall review available scientific information dealing with issues involved in the methods of pesticide application, including, but not limited to, the advisability of ultra-low-volume methods of application, and shall recommend to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture such changes as the Administrator may deem necessary in existing law relative to provisions of the Act pertaining to the use of a registered pesticide in a manner inconsistent with its labeling [section 136(ee) of this title]. The report shall be submitted as soon as practicable, but not later than six months after the date of enactment of this Act.

"(c) The Administrator shall submit an updated study examining the problems of minor uses of pesticides not specifically permitted by labeling. The Administrator shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, not later than nine months after the date of enactment of this Act [Sept. 30, 1978]."

§ 136x. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter are severable.

(June 25, 1947, ch. 125, § 30, formerly § 26, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 998, and renumbered Sept. 30, 1978, Pub. L. 95–396, § 24(1), 92 Stat. 836.)

§ 136y. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1975, shall be the sums hereafter provided by law. There is hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning July 1, 1975, and ending September 30, 1975, the sum of $11,967,000. There is hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending November 15, 1975, the sum of $5,983,500. There are hereby authorized to be appropriated to carry out the provisions of this subchapter for the period beginning October 1, 1975, and ending September 30, 1976, the sum of $47,868,000, and for the period beginning October 1, 1976, and ending September 30, 1977, the sum of $46,636,000, and for the period beginning October 1, 1977, and ending September 30, 1978, the sum of $54,500,000, and for the period beginning October 1, 1978, and ending September 30, 1979, such sums as may be necessary, but not in excess of $70,000,000.

(June 25, 1947, ch. 125, § 31, formerly § 27, as added Oct. 21, 1972, Pub. L. 92–516, § 2, 86 Stat. 998, amended July 2, 1975, Pub. L. 94–51, 89 Stat. 257; Oct. 10, 1975, Pub. L. 94–109, 89 Stat. 571; Nov. 28, 1975, Pub. L. 94–140, § 3, 89 Stat. 752, and renumbered and amended Sept. 30, 1978, Pub. L. 95–396, §§ 24(1), 25, 92 Stat. 836, 838.)

AMENDMENTS

1978—Pub. L. 95-396, § 25, substituted appropriations authorization of $46,636,000 for period beginning Oct. 1, 1976, and ending Sept. 30, 1977, for prior authorization of $23,600,000 for period beginning Oct. 1, 1976, and ending March 31, 1977, and authorized appropriations of $54,500,000 for period beginning Oct. 1, 1977, and ending Sept. 30, 1978, and such sums as may be necessary, limited to $70,000,000, for period beginning Oct. 1, 1978, and ending Sept. 30, 1979.

CHAPTER 8—NUSERY STOCK AND OTHER PLANTS AND PLANT PRODUCTS

§ 161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; notice and hearings; promulgation

The Secretary of Agriculture is authorized and directed to quarantine any State, Territory, or District of the United States, or any portion thereof, when he shall determine that such quarantine is necessary to prevent the spread of a dangerous plant disease or insect infestation, new to or not theretofore widely prevalent or distributed within and throughout the United States. No person shall ship or offer for shipment to any common carrier nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine except as hereinafter provided. It shall be unlawful to move, or allow to be moved, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from any quarantined State or Territory or District of the United States or quarantined portion thereof, into or through any other State or Territory or District, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It shall be the duty of the Secretary of Agriculture, when the public interests will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, and method and manner of delivery and shipment of the class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from a quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District: *Provided*, That before the Secretary of Agriculture shall promulgate his determination that it is necessary to quarantine any State, Territory, or District of the United States, or portion thereof, under the authority given in this section, he shall, after due notice to interested parties, give a public hearing under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further*, That until the Secretary of Agriculture shall have made a determination that such a quarantine is necessary and has duly established the same with reference to any dangerous plant disease or insect infestation, as hereinabove provided, nothing in this chapter shall be construed to prevent any State, Territory, Insular Possession, or District from promulgating, enacting, and enforcing any quarantine, prohibiting or restricting the transportation of any class of nursery stock, plant, fruit, seed, or other product or article subject to the restrictions of this section, into or through such State, Territory, District, or portion thereof, from any other State, Territory, District, or portion thereof, when it shall be found, by the State, Territory, or District promulgating or enacting the same, that such dangerous plant disease or insect infestation exists in such other State, Territory, District, or portion thereof: *Provided further*, That the Secretary of Agriculture is authorized, whenever he deems such action advisable and necessary to carry out the purposes of this chapter, to cooperate with any State, Territory, or District, in connection with any quarantine, enacted or promulgated by such State, Territory, or District, as specified in the preceding proviso: *Provided further*, That any nursery stock, plant, fruit, seed, or other product or article, subject to the restrictions of this section, a quarantine with respect to which shall have been established by the Secretary of Agriculture under the provisions of this chapter shall, when transported to, into, or through any State, Territory, or District, in violation of such quarantine, be subject to the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police powers, to the same extent and in the same manner as though such nursery stock, plant, fruit, seed, or other product or article had been produced in such State, Territory, or District, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(As amended Oct. 10, 1978, Pub. L. 95-439, § 4, 92 Stat. 1062.)

AMENDMENTS

1978—Pub. L. 95-439 struck out provisions requiring the Secretary of Agriculture to give notice of the establishment of a quarantine to common carriers doing business in or through the quarantined area, to publish notice of the establishment of the quarantine in newspapers in the quarantined area, and to give notice of the rules and regulations provided for in this section for the notice of establishment of quarantine.

CHAPTER 8A—RUBBER

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
171. Program for development of guayule and other rubber-bearing plants.
172. Authorization of Secretary to appoint employees; delegation of powers; cooperation with other agencies; allotment of funds; leases of facilities and disposal of water.

Sec.
173. Authorization of appropriations.
174. Omitted.
175. Lease or sublease of unsuitable lands; disposal of water supply.
176. Sale of guayule shrub to Reconstruction Finance Corporation.

SUBCHAPTER II—NATIVE LATEX COMMERCIALIZATION AND ECONOMIC DEVELOPMENT [NEW]

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178j. Laws governing inventions under this subchapter.
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SUBCHAPTER I—GENERAL PROVISIONS

§§ 171 to 176

CODIFICATION

Sections 171 to 176 of this title, which previously comprised chapter 8A of this title in its entirety, have been editorially redesignated as subchapter I of chapter 8A.

SUBCHAPTER II—NATIVE LATEX COMMERCIALIZATION AND ECONOMIC DEVELOPMENT [NEW]

§ 178. Congressional findings and declaration of policy

(a) Congress recognizes that natural latex rubber is a commodity of vital importance to the economy, the defense, and the general well-being of the Nation. The United States is totally dependent upon foreign sources for its supplies of natural (Hevea) latex, which total about one million tons per year. Synthetic rubber, manufactured from petroleum feedstocks, cannot be substituted for natural rubber.

(b) Congress further recognizes that certain plant species of the genus Parthenium (Guayule), native to Texas and the Republic of Mexico, as well as other plants, are known to contain commercial quantities of extractable rubber. During World War II, through research carried out by the Secretary of Agriculture in the Emergency Rubber Project, the United States demonstrated that Parthenium latex is a promising and realistic substitute for Hevea latex.

(c) Congress further recognizes that additional research and development are needed, especially into methods for increasing latex yields, before commercialization of native Parthenium latex or other hydrocarbon-containing plants by private industry is feasible.

(d) Congress further recognizes that the development of a domestic natural rubber industry, based on Parthenium and other hydrocarbon-containing plants, would not only relieve the Nation's dependence upon foreign latex sources but also convey substantial economic benefits to people living in arid and semiarid regions of the United States. Such an industry would comprise the agricultural production of the hydrocarbon-containing plants and the development of commercial processing and manufacturing facilities to extract the latex and other products.

(e) Congress further recognizes that ongoing research into the commercialization of native latex has been conducted by the Department of Agriculture and by the Department of Commerce through the regional commissions and that these research efforts should be continued and expanded.

(f) It is the policy of the Congress, therefore, to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants for the extraction of natural rubber and other products to benefit the Nation and promote economic development.

(Pub. L. 95-592, § 2, Nov. 4, 1978, 92 Stat. 2529.)

SHORT TITLE

Section 1 of Pub. L. 95-592 provided: "This Act [enacting this subchapter and amending section 1314f of this title] may be cited as the 'Native Latex Commercialization and Economic Development Act of 1978'."

§ 178a. Definitions

As used in this subchapter—

(a) The term "State" means each of the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) The term "Secretaries" means the Secretary of Agriculture and/or the Secretary of Commerce acting each separately or jointly.

(c) The term "commercialization" means the stage in the development or advancement of a technology at which point private enterprise is willing to invest in a full-scale production facility.

(d) The term "native" means hydrocarbon-containing plants which may be cultured in North America, especially members of the genus Parthenium known as Guayule.

(e) "Regional Commissions" means the Regional Action Planning Commissions established pursuant to title V of the Public Works and Economic Development Act of 1965 [42 U.S.C. 3181 et seq.].

(Pub. L. 95-592, § 3, Nov. 4, 1978, 92 Stat. 2529.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, as amended, referred to in subsec. (e), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended. Title V of the Public Works and Economic Development Act of 1965 is classified generally to subchapter V (§ 3181 et seq.) of chapter 38 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

§ 178b. Joint Commission on Guayule Research and Commercialization

(a) Establishment; function

There is established a Joint Commission on Guayule Research and Commercialization, hereinafter referred to as the Joint Commission. The function of the Joint Commission shall be to assist the Secretaries in carrying out the purposes of this subchapter.

(b) Membership

The Joint Commission shall consist of the following members: Three individuals designated by the Secretary of Agriculture from among the staff of his Department; three individuals designated by the Secretary of Commerce at least two of whom shall be Federal Cochairmen of Regional Commissions engaged in the support of native latex research, development, demonstration, or commercialization activities and one of whom shall be selected from among the members of his Department; a representative of the Bureau of Indian Affairs of the Department of the Interior; and a representative of the National Science Foundation.

(c) Chairman

The Joint Commission shall be headed by a Chairman. The Secretary of Agriculture shall designate one of the two members from his Department to serve as Joint Commission Chairman during the first two-year period following November 4, 1978, and the Secretary of Commerce shall designate one of the two members from his Department as Joint Commission Chairman during the second two-year period following November 4, 1978. And the same process of designating Joint Commission Chairmen shall be followed in ensuing years.

(d) Delegation of responsibilities to Joint Commission; transfer and use of appropriated funds

The Secretaries may delegate to the Joint Commission one or more of their responsibilities under this subchapter, and transfer to the Joint Commission funds appropriated to carry out the purposes of this subchapter as they deem appropriate to achieve the purposes of this subchapter, and the Joint Commission is authorized to carry out such functions and expend such funds to achieve the purposes of the subchapter.

(e) Duties

The Joint Commission shall—

(1) develop a plan establishing goals, timetables, and tasks to be undertaken in carrying out the purposes of this subchapter;

(2) establish broad policy for implementing the plan carrying out the purposes of this subchapter;

(3) establish criteria for evaluating and awarding contracts for research, development, and demonstration projects; and

(4) review and advise the Secretaries with respect to grants, contracts, and other project expenditures.

(f) Administrative support services

The Secretaries are authorized to provide without reimbursement such administrative support services, including the detail of staff personnel not to exceed a total of five persons from each Department, as the Joint Commission may need to carry out its functions.

(g) Report to Congress

One year after November 4, 1978, and each year thereafter, the Joint Commission shall provide to the Congress a report on the implementation of the subchapter. Such report shall (1) recommend specific directions for further research, development, and other work, and (2) recommend funding levels for various elements of the overall project.

(h) Advice of scientific, engineering and business communities

To the maximum extent possible, the Secretaries and the Joint Commission shall seek the advice of the scientific, engineering and business communities with respect to the activities carried out under this subchapter. The Secretaries and the Commission shall specifically seek the advice of persons with expertise in appropriate fields of agricultural research in land grant colleges and other universities, in State agricultural experiment stations, and in other appropriate organizations; and, persons with expertise in rubber manufacturing and commerce in private enterprise and other appropriate organizations.

(Pub. L. 95–592, § 4, Nov. 4, 1978, 92 Stat. 2530.)

§ 178c. Research and development program by Secretary of Agriculture

The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology development, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from Parthenium or other hydrocarbon-containing plants. Such research shall include, but not be limited to—

(a) carrying out extensive seed collections from wild plants in Texas, Mexico, and other areas and borrowing or purchasing seeds from other sources;

(b) developing a stockpile of Parthenium seeds, such stockpile to be appropriately classified and stored at a suitable facility;

(c) carrying out breeding and selection programs for the purpose of improving latex yields, expanding insect and disease resistance, and broadening the ranges of drought and cold tolerance of the Parthenium plant;

(d) establishing a system of experimental plantings in arid and semiarid regions of the United States having suitable climatic and soil conditions for the culture of Parthenium;

(e) carrying out specific studies on the effects of irrigation on plant growth and latex yield and survival potential;

(f) developing equipment needed to carry out nursery operations, planting, cultivating,

harvesting, transporting the crop, and other necessary agricultural activities;

(g) further refining present extraction technologies and future extraction technologies, including technologies which utilize solar energy; and

(h) establishing and maintaining a bank of all pertinent research data on native latex including extant United States Government publications and records from the emergency rubber project. Such data shall be made available to other Federal and State agencies and private persons who are interested or involved in native latex research, development, or manufacture.

(Pub. L. 95-592, § 5, Nov. 4, 1978, 92 Stat. 2531.)

§ 178d. Research and development program by Secretary of Commerce

The Secretary of Commerce is authorized and directed to initiate and carry out research, technology development, technology transfer, and demonstration projects to test and demonstrate the economic feasibility of the manufacture and commercialization of natural rubber from Parthenium or other hydrocarbon-containing plants. Such research may be carried out through the Regional Commissions or otherwise and shall include but not be limited to—

(a) conducting research and development on extraction and processing techniques;

(b) economic analysis of the production of native latex, including usable byproducts;

(c) studying the environmental, social, and economic impacts of the commercial development of native latex;

(d) evaluating the commercial marketability of Parthenium and rubber derived from other hydrocarbon-containing plants;

(e) further refining present extraction and manufacturing technologies and future extraction and manufacturing technologies, including technologies which utilize solar energy; and

(f) developing pertinent material and records on manufacturing of natural rubber which shall be available to other Federal and State agencies and private persons who are interested in or involved in natural rubber development, or manufacture.

(Pub. L. 95-592, § 6, Nov. 4, 1978, 92 Stat. 2531.)

§ 178e. Cooperative projects with Mexico

The Secretaries, in consultation with the Secretary of State, are authorized and encouraged to enter into cooperative projects with the Government of Mexico in order to accomplish appropriate aspects of the research and development provided for in this subchapter. Such cooperative projects should include, but not be limited to, projects to determine the economic feasibility of latex extraction and processing.

(Pub. L. 95-592, § 7, Nov. 4, 1978, 92 Stat. 2532.)

§ 178f. Assistance from States and public agencies; contracts and agreements

The Secretaries are authorized to accept financial or other assistance from any State or public agency to aid in carrying out the provisions of this subchapter and to enter into contracts with respect to such assistance and to enter into agreements with any State or public agency for the purpose of demonstrating, transferring, or applying results of research or methods of economic development relating to native latex.

(Pub. L. 95-592, § 8, Nov. 4, 1978, 92 Stat. 2532.)

§ 178g. Powers of Secretary of Agriculture

In carrying out the provisions of this subchapter, the Secretary of Agriculture is authorized to—

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, chemists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State scientific laboratories;

(d) establish and operate necessary facilities and plantations to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this subchapter;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interest in land (including water rights), facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current literature and publications, patents and licenses, land and interests in land;

(g) cause onsite inspections to be made of promising projects, domestic or foreign, and, in the case of projects located in the United States, cooperate and participate in their development when the Secretary determines that the purpose of this subchapter will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to native latex culture;

(i) coordinate, correlate, and publish information with a view to advancing the development of native latex technology; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies, and instrumentalities, and with interested persons, firms, institutions, and organizations.

(Pub. L. 95-592, § 9, Nov. 4, 1978, 92 Stat. 2532.)

References in Text

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), as amended referred to in par. (a), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

§ 178h. Powers of Secretary of Commerce

In carrying out the provisions of this subchapter, the Secretary of Commerce, acting through the Regional Commissions or otherwise, is authorized to—

(a) make grants to States, education institutions, scientific organizations, and Indian tribes as defined in the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of biologists, agronomists, foresters, geneticists, engineers, economists, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal and State institutions and other scientific laboratories;

(d) establish and operate necessary facilities and pilot plants to carry out the continuous research, testing, development, and programing necessary to effectuate the purposes of this subchapter;

(e) acquire secret processes, technical data, invention, patent applications, patents, licenses, land and interests in land (including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation; and

(f) foster and participate in regional, national, and international conferences relating to natural rubber manufacture.

(Pub. L. 95-592, § 10, Nov. 4, 1978, 92 Stat. 2533.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (Public Law 93-638, 25 U.S.C. 450), as amended referred to in par. (a), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

CODIFICATION

"This subchapter", referred to in provision preceding par. (a), and in par. (d), read in the original "this section", but was editorially translated as "this subchapter" to reflect the probable intent of Congress.

§ 178i. Coordination of activities with Federal agencies

In carrying out the provisions of this subchapter, the Secretaries and the Joint Commission shall insure that their activities are closely coordinated with the activities of other Federal agencies such as the Department of the Interior, National Science Foundation, Bureau of Indian Affairs, Department of Energy, Department of Defense, Treasury Department, Federal Preparedness Agency, and others in order to prevent duplication of effort, insure compatibility with ongoing programs and policies, and to fully exploit the opportunities inherent in the culture and manufacture of native latex.

(Pub. L. 95-592, § 11, Nov. 4, 1978, 92 Stat. 2533.)

§ 178j. Laws governing inventions under this subchapter

Relative to the definitions of, title to, and licensing of inventions made or conceived in the course of or under any contract or grant pursuant to this subchapter, and notwithstanding any other provisions of law, the provisions of sections 5908 and 5909 of title 42 shall govern.

(Pub. L. 95-592, § 12, Nov. 4, 1978, 92 Stat. 2533.)

§ 178k. Disposal of byproducts

The Secretary of Agriculture and the Secretary of Commerce may dispose of any latex, resin, wax, pulp, and any other byproducts resulting from operations under this subchapter. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts.

(Pub. L. 95-592, § 13, Nov. 4, 1978, 92 Stat. 2533.)

§ 178*l*. Rules and regulations

The Secretary of Agriculture and the Secretary of Commerce may issue rules and regulations necessary to effectuate the purposes of this subchapter.

(Pub. L. 95-592, § 14, Nov. 4, 1978, 92 Stat. 2533.)

§ 178m. Report to President and Congress

The Secretary of Agriculture and the Secretary of Commerce shall submit to the President and the Congress, no later than December 31, 1980, and each year thereafter through 1982, a report on the status of the research, development, and other work underway under this subchapter. Such report shall (1) recommend specific directions for further research, development and other work, and (2) recommend funding levels for various elements of the overall project.

(Pub. L. 95-592, § 15, Nov. 4, 1978, 92 Stat. 2533.)

§ 178n. Authorization of appropriations

(a) There is authorized to be appropriated to the Secretary of Agriculture $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, and $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, to carry out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.

(b) There is authorized to be appropriated to the Secretary of Commerce $2,500,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981, and $5,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, to carry out the purposes of this subchapter. Funds appropriated under this paragraph shall be available for obligation until the last day of the fiscal year after the year for which such funds are authorized.

(c) No more than 3 per centum of funds authorized under subsections (a) and (b) of this

section shall be available for administration and management of the program.

(d) Notwithstanding any other provision of this subchapter the authority to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

(Pub. L. 95-592, § 16, Nov. 4, 1978, 92 Stat. 2534.)

CHAPTER 9—PACKERS AND STOCKYARDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 11 App. section 525; title 15 sections 45, 1607, 1681s, 1691c, 1692*l*; title 28 section 2342.

SUBCHAPTER III—STOCKYARDS AND STOCKYARD DEALERS

§ 204. Bond and suspension of registrants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 228c of this title; title 11 App. section 525.

§ 205. General duty as to services; revocation of registration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 206. Rates and charges generally; discrimination

All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful: *Provided*, That rates and charges based upon percentages of the gross sales prices of livestock shall not be prohibited merely because they are based upon such percentages rather than on a per head basis.

(As amended Oct. 2, 1978, Pub. L. 95-409, § 1(a), 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95-409 added proviso that rates and changes based upon percentages of gross sales of livestock shall not be prohibited merely because based on such percentages rather than on a per head basis.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 211, 218c of this title.

§ 208. Unreasonable or discriminatory practices generally; rights of stockyard owner of management and regulation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 211, 218c of this title.

§ 211. Order of Secretary as to charges or practices; prescribing rates and practices generally

Whenever after full hearing upon a complaint made as provided in section 210 of this title, or after full hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be violative of section 205, 206, or 208 of this title, the Secretary—

(a) May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate or charge, or rates or charges, to be thereafter in such case observed as the maximum or minimum or both to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed: *Provided*, That the Secretary shall prescribe the rate or charge, or rates or charges, on a percentage or per head basis at the election of the stockyard owner or market agency, or on any other basis elected by the stockyard owner or market agency unless the Secretary finds such other basis to be violative of section 206 of this title; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services other than the rate or charge or rates or charges so prescribed; and (3) shall conform to and observe the regulation or practice so prescribed.

(As amended Oct. 2, 1978, Pub. L. 95-409, § 1(b), 92 Stat. 886.)

AMENDMENTS

1978—Pub. L. 95-409, § 1(b)(1), in provision preceding subsec. (a), substituted "violative of section 205, 206 or 208 of this title" for "unjust, unreasonable, or discriminatory".

Subsec. (a). Pub. L. 95-409, § 1(b)(2), substituted "May in accordance with the standard set forth in section 206 of this title determine and prescribe what will be the rate" for "May determine and prescribe what will be the just and reasonable rate", and "as the maximum or minimum or both" for "as both the maximum and minimum", and added proviso relating to prescription by the Secretary of rates or charges on a percentage or per head basis at the election of the owner or agency or any other basis unless violative of section 206 of this title.

Subsec. (b). Pub. L. 95-409, § 1(b)(3), substituted "other than the rate or charge or rates or charges" for "more or less than the rate or charge".

SUBCHAPTER V—GENERAL PROVISIONS

§ 221. Accounts and records of business; punishment for failure to keep

LIENS OR SECURITY INTERESTS AGAINST LIVESTOCK; INTERAGENCY TASK FORCE TO RECOMMEND METHOD OF PROVIDING INFORMATION TO PURCHASERS; REPORT TO CONGRESS

Pub. L. 95-409, § 2, Oct. 2, 1978, 92 Stat. 887, provided that: "The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing and recommending methods by which any livestock sellers, or their agents, may furnish to livestock marketing agencies, dealers, or packers, who purchase livestock or provide marketing services, information concerning the existence of any lien or security interest in or

against such livestock. The Secretary shall submit a report of the findings and conclusions of such task force, including legislative recommendations, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives no later than February 1, 1979."

§ 225. Laws unaffected

CODIFICATION

The Interstate Commerce Act, referred to in text, is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

§ 226. Powers of Interstate Commerce Commission unaffected

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 1607, 1681a, 1691c, 1692*l*.

§ 227. Powers of Federal Trade Commission and Secretary of Agriculture; reports

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 45, 1607, 1681a, 1691c, 1692*l*.

CHAPTER 11—HONEYBEES

§ 284. Eradication and control of undesirable species and subspecies

INDEMNIFICATION FOR BEEKEEPERS

Pub. L. 91-524, title VIII, § 804, Nov. 30, 1970, 84 Stat. 1382, as amended by Pub. L. 93-86, § 1(27)(A), Aug. 10, 1973, 87 Stat. 237; Pub. L. 95-113, title II, § 207, Sept. 29, 1977, 91 Stat. 921, provided that:

[*See main edition for text of (a) to (e)*]

"(f) The provisions of this section shall not be in effect after September 30, 1981."

CHAPTER 13—AGRICULTURAL AND MECHANICAL COLLEGES

SUBCHAPTER I—COLLEGE-AID LAND APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 322, 323, 329, 331, 341, 361a, 390b, 2664, 3103 of this title; title 16 sections 582a-1, 1672; title 22 section 2220a; title 42 sections 1788, 7811; title 43 section 179.

SUBCHAPTER II—COLLEGE-AID ANNUAL APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 331, 341, 390b, 390c, 2664, 3103, 3221, 3222, 3261 of this title; title 16 sections 1672, 1673; title 22 section 2220a; title 42 section 1788; title 43 section 179.

§ 329. Additional appropriation for agricultural colleges

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3152 of this title.

SUBCHAPTER III—RETIREMENT OF EMPLOYEES

§ 331. Retirement of land-grant college employees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361d, 3195, 3221, 3222 of this title.

SUBCHAPTER IV—AGRICULTURAL EXTENSION WORK APPROPRIATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 418, 2664, 3103, 3221 of this title; title 20 section 1010; title 39 section 3202.

§ 341. Cooperative extension work by colleges

In order to aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture, uses of solar energy with respect to agriculture, and home economics, and to encourage the application of the same, there may be continued or inaugurated in connection with the college or colleges in each State, Territory, or possession, now receiving, or which may hereafter receive, the benefits of subchapters I and II of this chapter, agricultural extension work which shall be carried on in cooperation with the United States Department of Agriculture: *Provided*, That in any State, Territory, or possession in which two or more such colleges have been or hereafter may be established, the appropriations hereinafter made to such State, Territory, or possession shall be administered by such college or colleges as the legislature of such State, Territory, or possession may direct. For the purposes of this subchapter, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(As amended Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1447(1), (2), 91 Stat. 1011.)

REFERENCES IN TEXT

The Federal Non-Nuclear Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 added reference to the uses of solar energy with respect to agriculture and added definition of "solar energy".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 342. Cooperative agricultural extension work; cooperation with Secretary of Agriculture

Cooperative agricultural extension work shall consist of the giving of instruction and practical demonstrations in agriculture, uses of solar

energy with respect to agriculture, and home economics and subjects relating thereto to persons not attending or resident in said colleges in the several communities, and imparting information on said subjects through demonstrations, publications, and otherwise and for the necessary printing and distribution of information in connection with the foregoing; and this work shall be carried on in such manner as may be mutually agreed upon by the Secretary of Agriculture and the State agricultural college or colleges or Territory or possession receiving the benefits of this subchapter.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XIV, § 1447(3), 91 Stat. 1011.)

AMENDMENTS

1977—Pub. L. 95–113 added reference to uses of solar energy with respect to agriculture.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 343. Appropriations; distribution; allotment and apportionment; Federal Extension Service

[See main edition for text of (a) to (d)]

(e) Insofar as the provisions of subsections (b) and (c) of this section, which require or permit Congress to require matching of Federal funds, apply to the Virgin Islands of the United States and Guam, such provisions shall be deemed to have been satisfied, for the fiscal years ending September 30, 1978, and September 30, 1979, only, if the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in such years equal the amounts budgeted and available for expenditure by the Virgin Islands of the United States and Guam in the fiscal year ending September 30, 1977.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XIV, § 1465, 91 Stat. 1018.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95–113 added subsec. (e).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3175, 3221 of this title.

CHAPTER 14—AGRICULTURAL EXPERIMENT STATIONS

SUBCHAPTER I—GENERAL PROVISIONS

SECTIONS REFERRED TO IN OTHER SECTIONS

Sections 361a to 361i, commonly known as the Hatch Act of 1887, are referred to in sections 384, 390b, 418, 450i, 2242, 2664, 3103, 3311 of this title; title 16 section 582a–1.

§ 361c. Authorization of appropriations and allotments of grants

[See main edition for text of (a) and (b)]

(c) Allotment of additional sums

Any sums made available by the Congress in addition to those provided for in subsection (b) of this section for State agricultural experiment station work shall be distributed as follows:

[See main edition for text of (1) to (3)]

4. Repealed. Pub. L. 95–113, title XIV, § 1466(a), Sept. 29, 1977, 91 Stat. 1018.

5. Three per centum shall be available to the Secretary of Agriculture for administration of sections 361a to 361i of this title. These administrative funds may be used for transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

[See main edition for text of (d) to (f)]

(As amended Sept. 29, 1977, Pub. L. 95–113, title XIV, § 1466, 91 Stat. 1018.)

AMENDMENTS

1977—Subsec. (c)(4). Pub. L. 95–113, § 1466(a), struck out subsec. (c)(4) which had provided that not less than 20 per centum of any sums appropriated pursuant to subsec. (c) for distribution to States be used for conducting marketing research projects approved by the Department of Agriculture.

Subsec. (c)(5). Pub. L. 95–113, § 1466(b), added provision authorizing the use of administrative funds for the transportation of scientists who are not officers or employees of the United States to research meetings convened for the purpose of assessing research opportunities or research planning.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390c, 3222 of this title.

SUBCHAPTER III—RESEARCH FACILITIES

§ 390. Congressional declaration of policy

It is declared to be the policy of the Congress to continue its support of agricultural research at eligible institutions through Federal-grant funds, to help finance physical facilities as required for the effective conduct of an adequate research program.

(As amended Pub. L. 95–113, title XIV, § 1416(3), Sept. 29, 1977, 91 Stat. 996.)

AMENDMENTS

1977—Pub. L. 95–113 substituted "eligible institutions" for "the State agricultural experiment stations" and struck out "on a matching basis," following "Federal-grant funds".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effec-

tive Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 390a. Congressional declaration of purpose

The purpose of this subchapter is to assist eligible institutions in the construction, acquisition, and remodeling of buildings, laboratories, and other capital facilities (including the acquisition of fixtures and equipment which are to become a part of such buildings) which are necessary to more effectively conduct research in agriculture and sciences related thereto through means of grants from the Federal Government.

(As amended Pub. L. 95-113, title XIV, § 1416(3), Sept. 29, 1977, 91 Stat. 996.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "eligible institutions" for "the State agricultural experiment stations".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 390c of this title.

§ 390b. Definitions

As used in sections 390a to 390j, inclusive, of this title—

[*See main edition for text of (1)*]

(2) the term "eligible institution" means a department established under provisions of the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), and under the direction of a college or university established in any State in accordance with the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), a department otherwise established pursuant to standards prescribed by any State the purpose of which is to conduct agricultural research, the Connecticut Agricultural Experiment Station at New Haven, Connecticut, the Ohio Agricultural Experiment Station at Wooster, Ohio, and those colleges, universities, and other legal entities in each State now receiving, or which may hereafter receive, benefits under the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute, or the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7); and

[*See main edition for text of (3)*]

(As amended Pub. L. 95-113, title XIV, § 1416(1), Sept. 29, 1977, 91 Stat. 994.)

REFERENCES IN TEXT

The Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), referred to in par. (2), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), referred to in par. (2), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

The Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), referred to in par. (2), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), referred to in par. (2), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1977—Par. (2). Pub. L. 95-113 substituted a definition of "eligible institution" for a definition of "State agricultural experiment station".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 390c. Administration

(a) Authorization of appropriations

There are authorized to be appropriated for allocation to eligible institutions under this subchapter to be used for the purpose set out in section 390a of this title, $15,000,000 for the fiscal year ending September 30, 1978, $19,000,000 for the fiscal year ending September 30, 1979, $23,000,000 for the fiscal year ending September 30, 1980, $27,000,000 for the fiscal year ending September 30, 1981, and $31,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year.

(b) Apportionment of funds

(1) The first $4,000,000 appropriated for research facilities pursuant to this section for any fiscal year shall be apportioned equally among eligible institutions.

(2) Any amount in excess of $4,000,000 appropriated under this section for any fiscal year shall be apportioned as follows: Each eligible institution shall be entitled to an amount which bears the same ratio to the total amount of funds being allocated in such fiscal year under this paragraph as the amount received by such institution in the preceding fiscal year bears to the total amount received by all eligible institutions in such preceding fiscal year. The amount received by eligible institutions in

the preceding fiscal year shall be determined on the basis of funds received under section 361c of this title, section 582a–2 of title 16, and—with respect to institutions receiving benefits under the Act of August 30, 1890 [7 U.S.C. 321 et seq.], including Tuskegee Institute—on the basis of funds received under section 450i of this title, during the fiscal years ending September 30, 1977, and September 30, 1978, and on the basis of funds received under section 3222 of this title in subsequent years.

(c) Rules and regulations

It shall be the duty and responsibility of the Secretary to administer the provisions of this subchapter under such rules and regulations as the Secretary may prescribe as necessary therefor.

(As amended Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 994.)

REFERENCES IN TEXT

The Act of August 30, 1890, referred to in subsec. (b)(2), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see short title note set out under section 321 of this title and Tables.

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–113 substituted provisions authorizing the appropriation of specific sums for each fiscal year through the end of the fiscal year ending Sept. 30, 1982, for provisions that had simply authorized the appropriation of such funds "as the Congress deems advisable".

Subsec. (b). Pub. L. 95–113 revised the formula under which appropriated funds will be apportioned by replacing a formula which had directed that one-third of the funds be allotted equally among the States, with the remaining two-thirds allotted according to a fixed formula.

Subsec. (c). Pub. L. 95–113 substituted "this subchapter" for "this section" and "as the Secretary may prescribe" for "as he may prescribe".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390d, 390h of this title.

§ 390d. Eligibility for payments; facility proposals

As a condition for receiving funds apportioned under section 390c of this title, each eligible institution shall submit, in such form as the Secretary may require, specific proposals for planning, acquisition, construction, repair, rehabilitation, renovation, or remodeling of buildings, laboratories, and other capital facilities including the acquisition of fixtures and equipment, including scientific instrumentation, which are to become part of such buildings. In a State having more than one eligible institution the Secretary shall devise procedures to insure that the facility proposals of the eligible institutions in such State provide for a coordinated food and agricultural research program among eligible institutions in such State.

(As amended Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95–113 added planning, repair, rehabilitation, renovation, and remodeling to the enumeration of activities covered by the specific proposals submitted to the Secretary and added provisions directing the Secretary to devise procedures to be used for the coordination of programs among eligible institutions in States having more than one eligible institution.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390e. Continuing availability of unused allotments

Any unused portion of the allotment to any eligible institution for any fiscal year shall remain available at the option of such institution for payment to such institution for a period of not more than five fiscal years following the fiscal year in which such allotment is first made available.

(As amended Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95–113 struck out requirement that the States making matching funds available in order to qualify for Federal funds and, in the remaining provisions relating to the continuing availability of unused appropriated funds, substituted "allotment to any eligible institution" for "allotment of any State" and "at the option of such institution for payment to such institution for a period of not more than five fiscal years following" for ", at the option of such State, for payment to such State for a period of not more than two fiscal years following".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390f. Multiple-purpose physical facilities; fund support basis

With respect to multiple-purpose physical facilities, the segment or portion thereof which is to be utilized for food and agricultural research shall be the basis for determination of fund support under this subchapter.

(As amended Pub. L. 95–113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95–113 added reference to food research.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390g. Amount of allocation; ascertainment and notification

For each fiscal year that funds are made available for allocation the Secretary shall ascertain, at the earliest practicable date during such year, the amount of the allocation to which each eligible institution is entitled and

shall notify each such institution in writing promptly thereafter as to the amount of such allocation.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 substituted references to "eligible institutions" for references to "States".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390h. Fiscal accountability

(a) Chief administrative officers; fiscal officers; duties, reports

Any eligible institution authorized to receive payments under the provisions of section 390c of this title shall have a chief administrative officer and a duly designated fiscal officer, who shall be the persons responsible for receipt of payments under the Acts referred to in section 390c(b) of this title, to whom payments can be directed by the Secretary. Such fiscal officer shall receive and account for all funds paid to such institution pursuant to the provisions of this subchapter, and shall submit a report, approved by the chief administrative officer of such institution, to the Secretary on or before the first day of December of each year. Such report shall contain a detailed statement of the amount received under the provisions of this subchapter during the preceding fiscal year, and of its disbursements on schedules prescribed by the Secretary.

(b) Diminution, loss, or misapplication of funds

If any portion of the allotted funds received by the duly authorized fiscal officer of any eligible institution shall by any action or contingency be diminished, lost, or misapplied, it shall be repaid by the institution concerned, and until repaid no part of any subsequent appropriation shall be allocated or paid to such institution.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted reference to "eligible institution" for reference to "State agricultural experiment station", struck out directive that the chief administrative officer be known as a director, and substituted reference to a "duly designated fiscal officer" for reference to a "treasurer or other officer appointed by the governing board".

Subsec. (b). Pub. L. 95-113 substituted reference to the "duly authorized fiscal officer of any eligible institution" for reference to the "authorized receiving officer of any State agricultural experiment station" and "repaid by the institution concerned" for "repaid by the State concerned".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390i. Reports to Congress

The Secretary shall make an annual report to Congress during the first regular session of each year with respect to (1) payments made under this subchapter, (2) the facilities, by institution, for which such payments were made, and (3) whether any portion of the appropriation available for allotment to any of the eligible institutions has been withheld and, if so, the reasons therefor.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 substituted reference to "eligible institution" and "institution" for references to "State" and "States".

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

§ 390j. Availability of appropriated funds for administration

Three per centum of funds appropriated under this subchapter shall be available to the Secretary for administration of this subchapter.

(As amended Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 995.)

AMENDMENTS

1977—Pub. L. 95-113 substituted provisions making available for administration three per centum of appropriated funds for provisions that any agricultural experiment station established by State law be eligible for benefits and that appropriated funds be divided between eligible institution in any one State.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390b, 3311 of this title.

§ 390k. Repealed. Pub. L. 95-113, title XIV, § 1416(2), Sept. 29, 1977, 91 Stat. 994

Section, Pub. L. 88-74, § 12, July 22, 1963, 77 Stat. 92, authorized the appropriation of such sums as might be necessary for proper administration of Pub. L. 88-74. See section 390j of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 17—MISCELLANEOUS MATTERS

§ 411b. Estimates of apple production

REPEATED

Pub. L. 95-448, title I, § 101, Oct. 11, 1978, 92 Stat. 1079.

Pub. L. 95-97, title I, § 101, Aug. 12, 1977, 91 Stat. 815.

§ 427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities

It is declared to be the policy of the Congress to promote the efficient production and utiliza-

tion of products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity. It is also the intent of Congress to assure agriculture a position in research equal to that of industry which will aid in maintaining an equitable balance between agriculture and other sections of our economy. For the attainment of these objectives, the Secretary of Agriculture is authorized and directed to conduct and to stimulate research into the laws and principles underlying the basic problems of agriculture in its broadest aspects, including but not limited to: Research relating to the improvement of the quality of, and the development of new and improved methods of the production, marketing, distribution, processing, and utilization of plant and animal commodities at all stages from the original producer through to the ultimate consumer; research into the problems of human nutrition and the nutritive value of agricultural commodities, with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to the gains or losses in nutritive value that may take place at any stage in their production, distribution, processing, and preparation for use by the consumer; research relating to the development of present, new, and extended uses and markets for agricultural commodities and byproducts as food or in commerce, manufacture, or trade, both at home and abroad, with particular reference to those foods and fibers for which our capacity to produce exceeds or may exceed existing economic demand; research to encourage the discovery, introduction, and breeding of new and useful agricultural crops, plants, and animals, both foreign and native, particularly for those crops and plants which may be adapted to utilization in chemical and manufacturing industries; research relating to new and more profitable uses for our resources of agricultural manpower, soils, plants, animals, and equipment than those to which they are now, or may hereafter be, devoted; research relating to the conservation, development, and use of land, forest, and water resources for agricultural purposes; research relating to the design, development, and the more efficient and satisfactory use of farm buildings, farm homes, farm machinery, including the application of electricity and other forms of power; research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation); research relating to the diversification of farm enterprises, both as to the type of commodities produced, and as to the type of operations performed, on the individual farm; research relating to any other laws and principles that may contribute to the establishment and maintenance of a permanent and effective agricultural industry including such investigations as have for their purpose the development and improvement of the rural home and rural life, and the maximum contribution by agriculture to the welfare of the consumer and the maintenance of maximum employment and national prosperity; and such other researches or experiments bearing on the agricultural industry or on rural homes of the United States as may in each case be deemd[1] advisable, having due regard to the varying conditions and needs of Puerto Rico, the respective States, and Territories. In effectuating the purposes of this section, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. Research authorized under this section shall be in addition to research provided for under existing law (but both activities shall be coordinated so far as practicable). For purposes of sections 427 to 427j of this title, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(As amended Sept. 29, 1977, Pub. L. 95-113, title XIV, § 1446, 91 Stat. 1011.)

REFERENCES IN TEXT

Sections 427a to 427h and 427j of this title, referred to in text, were repealed by act Aug. 11, 1955, ch. 790, § 2, 69 Stat. 674.

The Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, referred to in text, is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 added reference to research and development relating to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation) and added definition of "solar energy".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 427i. Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 361a, 427i, 1623a, 1629 of this title; title 21 section 113a.

§ 450i. Agricultural research program

(a) Establishment

In order to promote research in food, agriculture, and related areas, a research grants program is hereby established in the Department of Agriculture.

(b) Competitive grants

The Secretary of Agriculture is authorized to make competitive grants, for periods not to

[1] So in original. Probably should be "deemed".

exceed five years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals, for research to further the programs of the Department of Agriculture. To the greatest extent possible the Secretary shall allocate these grants to high priority research taking into consideration, when available, the determinations made by the Joint Council on Food and Agricultural Sciences identifying high priority research areas. In seeking research proposals and in performing peer review evaluations of such proposals under this subsection, the Secretary shall seek the widest participation of qualified scientists in the Federal Government, all colleges and universities, State agricultural experiment stations, and the private sector. The research grants shall be made without regard to matching funds by the recipient or recipients of such grants. There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this subsection, $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year.

(c) Special grants

The Secretary of Agriculture is authorized to make grants, for periods not to exceed five years in duration—

(1) to land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research, as determined by the Secretary, to carry out research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the Nation; and

(2) to land-grant colleges and universities and State agricultural experiment stations, to facilitate or expand on-going State-Federal food and agricultural research programs that (A) promote excellence in research, (B) promote the development of regional research centers, or (C) promote the research partnership between the Department of Agriculture and such colleges and universities or State agricultural experiment stations.

These grants shall be made without regard to matching funds.

(d) Facilities grants

The Secretary of Agriculture shall make annual grants to support the purchase of equipment, supplies, and land, and the construction, alteration, or renovation of buildings, necessary for the conduct of food and agricultural research, to—

(1) each State agricultural experiment station in an amount of $100,000 or an amount which is equal to 10 per centum of the funds received by such station under the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), and the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), whichever is greater: *Provided*, That of any amount in excess of $50,000 made available under this paragraph during any year for allotment to a State agricultural experiment station, no payment thereof shall be made in excess of the amount which the station makes available during that year for the purposes for which grants under this paragraph are made available; and

(2) each accredited college of veterinary medicine and State agricultural experiment station which receives funds from the Federal Government for animal health research, in an amount which is equal to 10 per centum of the animal health research funds received by such college or experiment station from the Federal Government during the previous fiscal year.

Any college or State agricultural experiment station eligible for annual grants under this subsection may elect to defer the receipt of an annual grant for any fiscal year for up to five years: *Provided*, That the total amounts deferred may not exceed $1,000,000. Application may be made for receipt of deferred grants at any time during the five years, subject to the matching funds requirement of this subsection and the availability of appropriations under this subsection.

(e) Recordkeeping; audit

Each recipient of assistance under this section shall keep such records as the Secretary of Agriculture shall, by regulation, prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such funds are given or used, and the amount of that portion of the costs of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary of Agriculture and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this section.

(f) Overhead costs

The Secretary of Agriculture shall limit allowable overhead costs, with respect to grants awarded under this section, to those necessary to carry out the purposes of the grants.

(g) Authorization of appropriations

Except as otherwise provided in subsection (b) of this section, there are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

(h) Rules and regulations

The Secretary of Agriculture is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this section.

(As amended Pub. L. 95-113, title XIV, § 1414, Sept. 29, 1977, 91 Stat. 991.)

REFERENCES IN TEXT

The Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), referred to in subsec. (d)(1), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

The Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), referred to in subsec. (d)(1), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1977—Pub. L. 95-113 designated existing provisions as subsec. (e) and a part of subsec. (b) and added the remainder of subsec. (b) and subsecs. (a), (c), (d) and (f) to (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 390c, 3122, 3222, 3241, 3311, 3315 of this title.

§ 450j. Indemnity payments to dairy farmers and manufacturers of dairy products; milk removed for its residue of chemical or toxic substances; nuclear radiation or fallout contaminants; other legal recourse

The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since August 10, 1973, in the case of indemnity payments not authorized prior to August 10, 1973), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since November 30, 1970, to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. The Secretary is also authorized to make indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer: *Provided*, That no indemnity payment may be made for contamination resulting from such residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.

(As amended Pub. L. 95-113, title II, § 205(1), Sept. 29, 1977, 91 Stat. 920.)

AMENDMENTS

1977—Pub. L. 95-113 authorized indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or because of residues of chemicals or toxic substances not included under the first sentence of this section if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, and added provision that no indemnity payment may be made for contamination resulting from residues of chemicals or toxic substances if the Secretary determines within thirty days after the date of application for payment that other legal recourse is available to the farmer.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 450*l*. Expiration of dairy farmer indemnity program

The authority granted under sections 450j to 450*l* of this title shall expire on September 30, 1981.

(As amended Pub. L. 95-113, title II, § 205(2), Sept. 29, 1977, 91 Stat. 920.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "September 30, 1981" for "June 30, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 20A—PERISHABLE AGRICULTURAL COMMODITIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 11 App. section 525; title 28 section 2342.

§ 499a. Definitions

When used in this chapter—

[*See main edition for text of (1) to (5)*]

(6) The term "dealer" means any person engaged in the business of buying or selling in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a "dealer" in respect to sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a "dealer" until the invoice cost of his purchases of perishable agricultural commodities in any calendar year are in excess of $200,000; and (C) no

person buying any commodity other than potatoes for canning and/or processing within the State where grown shall be considered a "dealer" whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section. Any person not considered as a "dealer" under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 499c of this title, and in such case and while the license is in effect such person shall be considered as a "dealer";

(7) The term "broker" means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a "broker" if such person is an independent agent negotiating sales for and on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of $200,000 in any calendar year;

[*See main edition for text of (8) to (10)*]

(As amended Nov. 1, 1978, Pub. L. 95-562, § 1, 92 Stat. 2381.)

1978 AMENDMENTS

Par. (6)(B). Pub. L. 95-562, § 1(a)(1), substituted "$200,000" for "$100,000".

Par. (6)(C). Pub. L. 95-562, § 1(b), inserted "other than potatoes" following "commodity".

Par. (7). Pub. L. 95-562, § 1(a)(2), substituted "$200,000" for "$100,000".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1(a) of Pub. L. 95-562 provided in part that amendment by Pub. L. 95-562 shall be effective Jan. 1, 1979.

POTATO DEALERS

Section 1(b) of Pub. L. 95-562 provided in part that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under par. (6) of this section as amended by section 1(b) of Pub. L. 95-562 until Jan. 1, 1982.

§ 499b. Unfair conduct

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499e, 499f, 499g, 499h, 499m of this title.

§ 499c. Licenses

[*See main edition for text of (a)*]

(b) Application; fees; creation and limitation of Perishable Agricultural Commodities Act Fund; availability of fund for administrative expenses; budget requirements; notice of increase in annual fee; filing of views and objections to increase

Any person desiring any such license shall make application to the Secretary. The Secretary may be regulation prescribe the information to be contained in such application and to be furnished thereafter. Upon the filing of the application, and annually thereafter, the applicant shall pay such fee as the Secretary determines necessary to meet the reasonably anticipated expenses for administering this chapter and sections 491, 493 to 497 of this title, but in no event shall such fee exceed $150, plus $50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary. Total annual fees for any applicant shall not exceed $1,000 in the aggregate. Such fee, when collected, shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitation, to be designated as the "Perishable Agricultural Commodities Act Fund", which shall be available for all expenses necessary to the administration of this chapter and sections 491, 493 to 497 of this title, referred to above: *Provided*, That the amount of money accumulated and on hand in the special fund at the end of any fiscal year shall not exceed 25 percent of the projected budget for the next following fiscal year: *Provided further*, That financial statements prescribed by the Director of the Office of Management and Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually. The Secretary shall give public notice of any increase to be made in the annual fee prescribed by him hereunder and shall allow a reasonable time prior to the effective date of such increase for interested persons to file their views on or objections to such increase.

[*See main edition for text of (c)*]

(As amended Nov. 1, 1978, Pub. L. 95-562, § 2, 92 Stat. 2381.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-562 substituted "in such application and to be furnished thereafter" for "in such application" and "$150, plus $50 for each branch or additional business facility operated by the applicant in excess of nine such facilities, as determined by the Secretary" for "$100", and inserted provisions limiting the total annual fees for any applicant to an amount not to exceed $1,000 in the aggregate and limiting the amount of money in the special fund at the end of any fiscal year to an amount not to exceed 25 percent of the projected budget for the next following fiscal year.

§ 499d. Issuance of license

(a) Authority to do business; termination; renewal

Whenever an applicant has paid the prescribed fee the Secretary, except as provided elsewhere in this chapter, shall issue to such applicant a license, which shall entitle the licensee to do business as a commission merchant and/or dealer and/or broker unless and until it is suspended or revoked by the Secretary in accordance with the provisions of this chapter, or is automatically suspended under section 499g(d) of this title, but said license shall automatically terminate on any anniversary date thereof unless the anual[1] fee has been paid: *Provided*, That notice of the necessity of paying the annual fee shall be mailed at least

[1] So in original. Probably should read "annual".

thirty days before the anniversary date: *Provided, further,* That if the annual fee is not paid by the anniversary date the licensee may obtain a renewal of that license at any time within thirty days by paying the fee provided in section 499c(b) of this title, plus $5, which shall be deposited in the Perishable Agricultural Commodities Act fund provided for by section 499c(b) of this title: *And provided further,* That the license of any licensee shall terminate upon said licensee, or in case the licensee is a partnership, any partner, being discharged as a bankrupt, unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination.

[*See main edition for text of* (b) *to* (d)]

(e) Refusal of license

The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, and if he finds that the circumstances of such bankruptcy warrant such a refusal, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this chapter.

(As amended Nov. 6, 1978, Pub. L. 95-598, title III, § 303, 92 Stat. 2673.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-598, § 303(a), inserted ", unless the Secretary finds upon examination of the circumstances of such bankruptcy, which he shall examine if requested to do so by said licensee, that such circumstances do not warrant such termination".

Subsec. (e). Pub. L. 95-598, § 303(b), inserted "and if he finds that the circumstances of such bankruptcy warrant such a refusal,".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see sec. 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

§ 499f. Complaint and investigation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499g, 499h, 499m of this title.

§ 499g. Reparation order

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 499d, 499h, 499m of this title; title 28 section 2342.

§ 499m. Complaints; procedure, penalties, etc.

[*See main edition for text of* (a)]

(b) Inspection of records; surety bond; suspension of license

The Secretary or the Secretary's duly authorized agents, in order to insure that the prompt payment provision of section 499b(4) of this title is being complied with, shall from time to time inspect the accounts, records, and memoranda of any commission merchant, dealer, or broker determined in a formal disciplinary proceeding under section 499f(b) of this title to have violated such provision. The Secretary may also require that any such commission merchant, dealer, or broker furnish, maintain, and from time to time adjust a surety bond in form and amount satisfactory to the Secretary as assurance that such commission merchant's, dealer's, or broker's business will be conducted in accordance with this chapter and that such commission merchant, dealer, or broker will pay all reparation awards, subject to its right of appeal under section 499g(c) of this title: *Provided,* That if such surety bond is furnished, maintained, and adjusted as required by the Secretary, the Secretary shall not thereafter inspect the accounts, records, and memoranda of such commission merchant, dealer, or broker under this subsection more than once a year. If any such commission merchant, dealer, or broker refuses to permit such inspection or fails or refuses to furnish, maintain, or adjust such surety bond, the Secretary may publish the facts and circumstances and, by order, suspend the license of the offender until permission to make such inspection is given or such surety bond is furnished, maintained, or adjusted.

(c) Hearings; subpoenas; oaths; witnesses; evidence

The Secretary, or any officer or employee designated by him for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this chapter.

(d) Disobedience to subpoenas; remedy; contempt

In case of disobedience to a subpoena, the Secretary or any of his examiners may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of accounts, records, and memoranda. Any district court of the United States within the jurisdiction of which any hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or his examiner or to produce accounts, records, and memoranda if so ordered, or to give evidence touching any matter pertinent to any complaint; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(e) Depositions; production of accounts, records and memoranda

The Secretary may order testimony to be taken by deposition in any proceeding or inves-

tigation or incident to any complaint pending under this chapter at any stage thereof. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce accounts, records, and memoranda in the same manner as witnesses may be compelled to appear and testify and produce accounts, records, and memoranda before the Secretary or any of his examiners.

(f) Fees and mileage of witnesses

Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

(As amended Nov. 1, 1978, Pub. L. 95-562, § 3, 92 Stat. 2381.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-562 added subsec. (b) and redesignated former subsec. (b) as (c).

Subsecs. (c) to (f). Pub. L. 95-562 redesignated former subsecs. (b) to (e) as (c) to (f).

CHAPTER 26—AGRICULTURAL ADJUSTMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 671, 672, 673 of this title; title 12 section 1150a; title 18 section 433; title 41 section 22.

SUBCHAPTER III—COMMODITY BENEFITS

§ 608c. Orders regulating handling of commodity

[*See main edition for text of (1) to (4)*]

(5) Milk and its products; terms and conditions of orders

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

[*See main edition for text of (A) to (G)*]

(H) Omitted.

[*See main edition for text of (I)*]

(6) Other commodities; terms and conditions of orders

In the case of the agricultural commodities and the products thereof, other than milk and its products, specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subdivision (7) of this section), no others:

[*See main edition for text of (A) to (H)*]

(I) Establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: *Provided*, That with respect to orders applicable to almonds, California-grown peaches, cherries, papayas, carrots, citrus fruits, onions, Tokay grapes, pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, avocados, apples, raisins, or tomatoes, such projects may provide for any form of marketing promotion including paid advertising and with respect to almonds, raisins, and Florida Indian River grapefruit may provide for crediting the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized by the order and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form: *Provided further*, That the inclusion in a search and marketing promotion, including paid advertising, shall not be deemed to preclude, preempt or supersede any such provisions in any State program covering the same commodity.

[*See main edition for text of (J); (7) to (17)*]

(18) Milk prices

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

[See main edition for text of (19)]

(As amended May 15, 1978, Pub. L. 95-279, title IV, § 401(a), 92 Stat. 242.)

CODIFICATION

Subsec. (5)(H), which permitted marketing orders applicable to milk and its products to be limited in application to milk used for manufacturing, was omitted from the Code as terminated. See Termination of 1965 Amendments note set out in main edition.

In subsec. (18), "or, in the case of orders applying only to manufacturing milk, the production area" following "marketing area" in two places, was deleted from the Code. See Termination of 1965 Amendments note set out in main edition.

AMENDMENTS

1978—Par. (6)(I). Pub. L. 95-279 inserted "raisins" after "apples" and after "with respect to almonds".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 401(a) of Pub. L. 95-279 provided in part that the amendments by section 401(a) of Pub. L. 95-279 shall be effective Oct. 1, 1978.

TERMINATION OF 1970 AMENDMENT

Section 201(e) of Pub. L. 91-524, as amended by Pub. L. 93-86, § 1(2)(A), Aug. 10, 1973, 87 Stat. 222; Pub. L. 95-113, title II, § 201, Sept. 29, 1977, 91 Stat. 919, provided that: "The provisions of this section [amending subsec. (5)(B) of this section] shall not be effective after December 31, 1981, except with respect to orders providing for class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1984."

REPORT TO HOUSES OF CONGRESS REGARDING IMPLEMENTATION OF PROVISIONS RELATING TO HANDLING OF COMMODITIES

Section 401(b) of Pub. L. 95-279 provided that: "Within a period of sixty days following the second anniversary of the implementation of this section, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that shall describe in detail how this section has been implemented including, but not limited to, information as to the issuance or amendment of any affected order, the annual amount of assessments collected, in the aggregate and by size and class of handler, the manner in which such assessments were collected, the amount of direct expenditures credited against the pro rata expense assessment obligations of each handler, and the purpose to which such assessments and such direct expenditures of each such handler were devoted."

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1977 AMENDMENT STATUS

Pub. L. 95-113, title II, § 202. Sept. 29, 1977, 91 Stat. 919, provided that: "The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act [see Short Title note set out under section 601 of this title], as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [act June 3, 1937, ch. 296, 50 Stat. 246, set out as a note under section 601 of this title] shall be the same subsequent to the adoption of the amendment made by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note under section 1281 of this title] as it was prior thereto."

§ 608e-1. Import prohibition on tomatoes, avocados, limes, etc.; rules and regulations

Notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, filberts, or eggplants produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided*, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: *Provided further*, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if[1] this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty.

(As amended Sept. 29, 1977, Pub. L. 95-113, title X, § 1006, 91 Stat. 951.)

AMENDMENTS

1977—Pub. L. 95-113 extended the import prohibition to filberts.

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[1] So in original. Probably should be "of".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 612c. Appropriation to encourage exportation and domestic consumption of agricultural products

COMMODITY DISTRIBUTION PROGRAM; PURCHASE OF AGRICULTURAL COMMODITIES; FURNISHING COMMODITIES TO SUMMER CAMPS

Pub. L. 93-86, § 4, Aug. 10, 1973, 87 Stat. 249, as amended by Pub. L. 93-347, § 1, July 12, 1974, 88 Stat. 340; Pub. L. 94-273, § 2(1), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95-113, title XIII, §§ 1302(a)(1), 1304(a), Sept. 29, 1977, 91 Stat. 979, 980, provided that:

"(a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1978, 1979, 1980, and 1981, purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions, supplemental feeding programs wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977 [section 2013(b) of this title]. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

"(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance."

[Pub. L. 93-233, § 8(b)(1), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3(2), June 30, 1977, 91 Stat. 255, eff. July 1, 1977, provided that: "Section 4(c) of Public Law 93-86 shall not be effective for the period ending September 30, 1978."] [For repeal of section 4(c) of Pub. L. 93-86, see section 1304(a) of Pub. L. 95-113.].

[Section 1302(b) and section 1304(a) in part, both of Pub. L. 95-113, provided that the amendment of subsecs. (a) and (b) of section 4 of Pub. L. 93-86 and the repeal of subsec. (c) of section 4 of Pub. L. 93-86 are effective Oct. 1, 1977.]

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Section 5 of Pub. L. 93-86, as added Pub. L. 95-113, title XIII, § 1304(b)(2), Sept. 29, 1977, 91 Stat. 980, eff. Oct. 1, 1977, provided that:

"(a) In carrying out the supplemental feeding program (hereinafter referred to as the 'commodity supplemental food program') to which reference is made in section 4 of this Act [set out as a note above], the Secretary of Agriculture shall pay to each State or local agency administering any such program, for each of the fiscal years 1978 through 1981, an amount equal to its administrative costs not in excess of an amount equal to 15 per centum of the total amount of the value of commodities made available to the State or local agency for such program in such fiscal year.

"(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully: *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

"(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

"(d) During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program."

[Section 1304(b) of Pub. L. 95-113 provided in part that section 5 of Pub. L. 93-86 is effective Oct. 1, 1977.]

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS DURING THE PERIOD ENDING SEPTEMBER 30, 1978

Pub. L. 93-233, § 8(b)(3), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3(2), June 30, 1977, 91 Stat. 255, provided that: "For the period ending September 30, 1978, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [section 1381 et seq. of Title 42, The Public Health and Welfare], State supplementary payments described in section 1616 of such Act [section 1382e of Title 42], or payments of the type referred to in section 212(a) of Public Law 93-66 [set out as a note under section 1382 of Title 42], shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74-320 [this section], section 416 of the Agricultural Act of 1949 [section 1431 of this title], or any other law, for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of Title 42], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps." [Amendment by Pub. L. 93-335 effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as an Effective Date of 1974 Amendment note under section 1382 of Title 42. The Public Health and Welfare Section 3 of Pub. L. 95-59 provided in part that the amendment of section 8 of Pub. L. 93-233 by section 3(2) of Pub. L. 95-59 is effective July 1, 1977.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 624, 1392, 1421, 1424, 1431b, 1641, 1855, 2627 of this title; title 12 section 1150a; title 15 sections 713c, 713c-2, 713c-3; title 22 section 1922; title 40 section 474; title 42 sections 1755, 1758, 1761, 1762, 1762a, 1777, 1786, 3030a, 3045f, 5180.

§ 612c-3. Export sales reports; reporting period; contents; confidentiality; compilation and publication by Secretary; penalty for failure to report; monthly reports

All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may, with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales, provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

(As amended Pub. L. 95-113, title X, § 1005, Sept. 29, 1977, 91 Stat. 951.)

AMENDMENTS

1977—Pub. L. 95-113 provided that whenever the Secretary requires that information be reported by exporters on a daily basis, the information compiled from individual reports be made available to the public daily.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

INTERAGENCY TASK FORCE ON EXPORT SALES REPORTING

Pub. L. 95-501, title VI, § 603, Oct. 21, 1978, 92 Stat. 1692, provided that: "The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing the effectiveness of the export sales reporting provisions of section 812 of the Agricultural Act of 1970 [this section]. The Secretary shall submit, not later than January 3, 1979, a report of the findings of the task force, including legislative recommendations for improving such reporting provisions, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 87f-2 of this title; title 50 App. sections 2403, 2409.

§ 623. Actions relating to tax; legalization of prior taxes

(a) Action to restrain collection of tax or obtain declaratory judgment forbidden

No suit, action, or proceeding (including probate, administration, and receivership proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this chapter on or after August 24, 1935, or (2) of obtaining a declaratory judgment under sections 2201 and 2202 of title 28 in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

[*See main edition for text of* (b) *and* (c)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title III, § 304, 92 Stat. 2673.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-598 struck out ", and bankruptcy" following "receivership" in the first sentence, and struck out "bankruptcy," following "receivership" in the second sentence.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective Oct. 1, 1979, see sec. 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of the Appendix to Title 11, Bankruptcy.

CHAPTER 26A—AGRICULTURAL MARKETING AGREEMENTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 50 App. section 2166.

CHAPTER 31—RURAL ELECTRIFICATION AND TELEPHONE SERVICE

SUBCHAPTER I—RURAL ELECTRIFICATION

Sec.
916. Criteria for loans [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 590z-7; title 43 section 485h.

SUBCHAPTER I—RURAL ELECTRIFICATION

§ 904. Loans by Administrator for electrical plants and transmission lines; preferences; consent of State authorities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 905, 907, 912, 922, 931, 932 of this title; title 16 section 2708.

§ 912a. Rescheduling and refinancing of loans

EFFECTIVE DATE

Section effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

§ 916. Criteria for loans

In order to insure coordination of electric generation and transmission financing under this chapter with the national energy policy, the Administrator in making or guaranteeing loans for the construction, operation, or enlargement of generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this chapter as may be published by the Secretary of Energy.

(May 20, 1936, ch. 432, title I, § 16, as added Aug. 4, 1977, Pub. L. 95-91, title VII, § 709(f), 91 Stat 608.)

CHAPTER 33—FARM TENANCY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1006a, 1981 of this title; title 12 sections 84, 1150a; title 16 sections 241e, 441h, 441i; title 18 section 433; title 25 section 621; title 26 section 126; title 38 section 1811; title 43 section 451f.

SUBCHAPTER III—LAND CONSERVATION AND LAND UTILIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1931 of this title; title 16 sections 241e, 441h, 1609; title 30 section 601.

§ 1010. Land conservation and land utilization

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1011, 1033, 1931, 1981 of this title; title 16 sections 441h, 478a; title 26 section 126; title 30 section 601.

§ 1011. Powers of Secretary of Agriculture

To effectuate the program provided for in section 1010 of this title, the Secretary is authorized—

[See main edition for text of (a) to (d)]

(e) To cooperate with Federal, State, territorial, and other public agencies and local nonprofit organizations in developing plans for a program of land conservation and land utilization or plans for the conservation, development, and utilization of water for aquacultural purposes, to assist in carrying out such plans by means of loans to State and local public agencies and local nonprofit organizations designated by the State legislature or the Governor, to conduct surveys and investigations relating to conditions and factors affecting, and the methods of accomplishing most effectively the purposes of this subchapter, and to disseminate information concerning these activities. As used in this subsection, the term "aquaculture" means the culture or husbandry of aquatic animals or plants. Loans to State and local public agencies and to local nonprofit organizations shall be made only if such plans have been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over such plans, or by the Governor if there is no such State agency. No appropriation shall be made for any single loan under this subsection in excess of $500,000 unless such loan has been approved by resolutions adopted by the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Loans under this subsection shall be made under contracts which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than 30 years, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury on its marketable public obligations outstanding at the beginning of the fiscal year in which the loan is made, which are neither due nor callable for redemption for 15 years from date of issue. Repayment of principal and interest on such loans shall begin within 5 years. In providing assistance for carrying out plans developed under this subchapter, the Secretary shall be authorized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided*, That all engineering and other technical assistance costs relating to such development may be borne by the Secretary: *Provided further*, That when a State or other public agency or local nonprofit organization participating in a plan developed under this subchapter agrees to operate and maintain any reservoir or other area included in a plan for public waterbased fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each seventy-five thousand acres in any project; and that any such public waterbased fish and wildlife or receptional development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16

U.S.C. 460*l*-4 et seq.]; and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority.

The Secretary shall also be authorized in providing assistance for carrying out plans developed under this subchapter:

[See main edition for text of (1) and (2); (f)]

(As amended S. Res. 4, Feb. 4, 1977; Sept. 29, 1977, Pub. L. 95-113, title XV, §§ 1503(a), 1507, 91 Stat. 1021, 1022.)

AMENDMENTS

1977—Subsec. (e). Pub. L. 95-113 added reference to plans for the conservation, development, and utilization of water for aquacultural purposes, added the definition of "aquaculture", and substituted "$500,000" for "$250,000".

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate, referred to in subsec. (e), was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 35—AGRICULTURAL ADJUSTMENT ACT OF 1938

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

Sec.
1308. Limitation on payments under wheat, feed grains, upland cotton, and rice programs for 1978 through 1981 crops [New].
1309. Set-aside of normally planted acreage; 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice; commodity price increase to compensate for participation in set-aside [New].
1310. American agriculture protection program [New].
(a) Determination of short supply; suspension of commercial export sales; parity price.
(b) Duration of loan level.
(c) Definition.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 1428, 1442, 1444a, 1446c, 1745 of this title.

GENERAL PROVISIONS

§ 1281. Short title

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-113, § 1, Sept. 29, 1977, 91 Stat. 913, provided: "That this Act [enacting sections 1308 to 1310, 1444c, 1445b to 1445f, 1715, 2027, 2266, 2267, 2281 to 2289, 2669, 2670, 3101 to 3103, 3121 to 3128, 3151 to 3154, 3171 to 3178, 3191 to 3201, 3221, 3222, 3241, 3251, 3252, 3261 to 3263, 3271, 3281, 3282, 3291, 3301 to 3304, 3311 to 3316, and 3401 to 3417 of this title and section 590q-3 of Title 16, Conservation, amending sections 75 to 79b, 84, 87 to 87b, 87e, 87f-1, 87f-2, 87h, 341 to 343, 361c, 390 to 390j, 427, 450i, 450j, 450*l*, 608e-1, 612c-3, 1011, 1307, 1352, 1358 to 1359, 1373, 1374, 1377, 1385, 1427 to 1428, 1431, 1441, 1444, 1446, 1446a, 1447, 1622, 1702, 1724, 1731 to 1733, 1736b, 1736c, 1781, 1782, 1923, 1929, 1929a, 1932, 1942, 2011 to 2026, 2201, 2204, 2652, 2654, 2662, 2663, and 2667 of this title, section 714b of Title 15, Commerce and Trade, sections 590h, 590o, 1002, 1005, 1006a, and 1505 of Title 16, and section 6651 of Title 42, The Public Health and Welfare, repealing section 390k of this title, enacting provisions set out as notes under sections 74, 75a, 612c, 1281, 1307, 1330, 1331, 1342, 1352, 1353, 1358, 1358a, 1359, 1373, 1377, 1379d, 1385, 1427, 1428, 1441, 1444, 1444b, 1444c, 1445a to 1445c, 1446, 1446d, 1447, 1691, 2011, 2012, 2266, 3101, and 3401 of this title and section 714b of Title 15, and amending provisions set out as notes under sections 74, 79, 135b, 608c, 612c, 1308, and 2011 of this title and under section 1382e of Title 42] may be cited as the 'Food and Agriculture Act of 1977'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-86, § 6, formerly § 5, Aug. 10, 1973, 87 Stat. 250, as renumbered Pub. L. 95-113, title XIII, § 1304(b)(1), Sept. 29, 1977, 91 Stat. 980, provided that: "This Act [which enacted sections 428b, 612c-2, 612c-3, 1282a, 1427a, 1434, 1441a, 1736e, and 2026 of this title and sections 1501 to 1510 of Title 16, Conservation, amended sections 450j, 450*l*, 608c, 1301, 1305, 1306, 1307, 1334a-1, 1342a, 1344b, 1350, 1374, 1379b, 1379c, 1379g, 1428, 1444, 1445a, 1446, 1446a, 1703, 1736c, 1782, 1787, 1925, 1926, 1932, 2012, 2014, 2016, 2019, 2025, 2119, 2651, and 2654 of this title, repealed section 1628 of this title, enacted provisions set out as notes under sections 608c, 612c, 624, 1301, 1305, 1306, 1344b, 1350, 1379b, 1379c, 1379d, 1441, 1444, 1445a, and 1446 of this title, section 142 of Title 13, Census, and section 71 of Title 45, Railroads, and amended provisions set out as notes under sections 135b, 608c, 1305, 1330 to 1336, 1338, 1339, 1342, 1343, 1344, 1344b, 1345, 1346, 1377 to 1379, 1379b, 1379c, 1385, 1427, 1428, 1441, 1445a, 1446, and 1446d of this title] may be cited as the 'Agriculture and Consumer Protection Act of 1973'."

SUBCHAPTER I—ADJUSTMENT IN FREIGHT RATES, NEW USES AND MARKETS, AND DISPOSITION OF SURPLUSES

§ 1291. Adjustments in freight rates

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 474.

SUBCHAPTER II—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

PART A—DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

§ 1301. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 1111, 1301a, 1330, 1445, 1782 of this title; title 43 sections 620c, 1524.

§ 1307. Limitation on payments under wheat, feed grains, and cotton programs for 1974 through 1977 crops

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop of the commodities shall not exceed $20,000.

[See main edition for text of (2) to (4)]

(As amended Pub. L. 95-113, title I, § 104, Sept. 29, 1977, 91 Stat. 919.)

REFERENCES IN TEXT

The Food and Agriculture Act of 1977, referred to in par. (1), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913. Title IV of the Food and Agriculture Act of 1977 enacted section 1445b of this title, amended sections 1385, 1427, and 1428 of this title, and enacted provisions set out as notes under sections 1330, 1331, 1379d, 1385, 1427, 1428, 1445a, and 1445b of this title. Title V of the Food and Agriculture Act of 1977 enacted section 1444c of this title and enacted provisions set out as notes under sections 1444b and 1444c of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under 1281 of this title and Tables.

AMENDMENTS

1977—Par. (1). Pub. L. 95-113 substituted "to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1976 crops of the commodities and by titles IV and V of the Food and Agriculture Act of 1977 and titles IV, V, and VI of this Act for the 1977 crop" for "to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1977 crops".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1901 of Pub. L. 95-113 provided that: "Except as otherwise provided herein, the provisions of this Act [see Short Title of 1977 Amendment note set out under section 1281 of this title] shall become effective October 1, 1977."

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Pub. L. 95-156, Nov. 8, 1977, 91 Stat. 1264, provided: "That, notwithstanding any other provision of law, the term 'payments' as used in section 101 of the Agricultural Act of 1970, as amended [this section], and section 101(g)(13) of the Agricultural Act of 1949, as amended [section 1441(g)(13) of this title], shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

§ 1308. Limitation on payments under wheat, feed grains, upland cotton, and rice programs for 1978 through 1981 crops

Notwithstanding any other provision of law—

(1) The total amount of payments which a person shall be entitled to receive under—

(A) one or more of the annual programs established under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], and the Agricultural Adjustment Act of 1938, as amended [7 U.S.C. 1281 et seq.], for wheat, feed grains, and upland cotton shall not exceed $40,000 for the 1978 crop and $45,000 for the 1979 crop;

(B) the annual rice program established under such Acts shall not exceed $52,250 for the 1978 crop and $50,000 for the 1979 crop; and

(C) one or more of the annual programs established under such Acts for wheat, feed grains, upland cotton, and rice shall not exceed $50,000 for each of the 1980 and 1981 crops.

(2) The term "payments" as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation.

(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(4) The Secretary shall issue regulations defining the term "person" and prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of such limitation: *Provided*, That the provisions of this section which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary. The rules for determining whether corporations and their stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970, under section 1307 of this title.

(Pub. L. 95-113, title I, § 101, Sept. 29, 1977, 91 Stat. 917.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in par. (1)(A), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Agricultural Adjustment Act of 1938, as amended, referred to in par. (1)(A), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to this chapter (§ 1281 et seq.). For complete classification of this Act to the Code, see section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of Pub. L. 95-133, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977, and not as part of act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, known as the Agricultural Adjustment Act of 1938, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1444c, 1445b of this title.

§ 1309. Set-aside of normally planted acreage; 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice; commodity price increase to compensate for participation in set-aside

(a) Notwithstanding any other provision of law, whenever a set-aside is in effect for one or more of the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], that the acreage normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers, shall be reduced by the acreage of set-aside or diversion.

(b) Notwithstanding any other provision of law, whenever a set-aside is in effect for one or more of the 1978 through 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may increase the established price for any such commodity by the amount the Secretary determines appropriate to compensate producers for participation in such set-aside. In determining the amount of any such increase, the Secretary shall take into account changes in the cost of production resulting from participation in the set-aside involved. If the established price is increased for any commodity for which a set-aside is in effect, the Secretary may increase the established price for any other commodity in such amount as the Secretary determines necessary for effective operation of the program. The Secretary shall adjust any increase in the established price to reflect, in whole or in part, any land diversion payments for the crop for which an increase is determined.

(Pub. L. 95-113, title X, § 1001, Sept. 29, 1977, 91 Stat. 950, amended Pub. L. 95-279, title I, § 101, May 15, 1978, 92 Stat. 240; Pub. L. 95-334, title V, § 501(a), Aug. 4, 1978, 92 Stat. 434.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in text is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of Pub. L. 95-133, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977, and not as part of act Feb. 16, 1938, ch. 30, 52 Stat. 31, known as the Agricultural Adjustment Act of 1938, which comprises this chapter.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-334 added applicability to rice.

Pub. L. 95-279 designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENTS

Section 501(b) of Pub. L. 95-334 provided that: "This section [amending subsec. (b) of this section] shall become effective October 1, 1978, and any producers who, prior to such date, receive payments on the 1978 crop of rice as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title], may elect after September 30, 1978, to receive payments as computed under section 1001(b) of the Food and Agriculture Act of 1977, as amended by this section [subsec. (b) of this section]."

Section 103 of Pub. L. 95-279 provided that: "Sections 101 [amending this section] and 102 [amending section 1444(f)(1) of this title] of this title shall become effective October 1, 1978, and any producers who, prior to such date, receive loans and payments on the 1978 crop of the commodity as computed under the Agricultural Act of 1949 [see Short Title note set out under section 1421 of this title], as amended by the Food and Agriculture Act of 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title] may elect after September 30, 1978, to receive loans and payments as computed under this title [amending this section and section 1444(f)(1) of this title]."

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1446 of this title.

§ 1310. American agriculture protection program

(a) Determination of short supply; suspension of commercial export sales; parity price

Notwithstanding any other provision of law, whenever the President or any other member of the executive branch of the Federal Government causes to be suspended, based upon a determination of short supply, the commercial export sales of any commodity, as defined in subsection (c) of this section, to any country or area with which the United States otherwise continues commercial trade, the Secretary of Agriculture shall, on the day the suspension is initiated, set the loan level for such commodity under the Agricultural Act of 1949, as amended [7 U.S.C. 1421 et seq.], if a loan program is in effect for the commodity, at 90 per centum of the parity price for the commodity, as such parity price is determined on the day the suspension is initiated.

(b) Duration of loan level

Any loan level established pursuant to subsection (a) of this section shall remain in effect as long as the suspension of commercial export sales described in subsection (a) of this section remains in effect.

(c) Definition

For purposes of this section, the term "commodity" shall include any of the following: wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed, and cotton.

(Pub. L. 95-113, title X, § 1002, Sept. 29, 1977, 91 Stat. 950.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was enacted as part of Pub. L. 95–133, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977, and not as part of act Feb. 16, 1938, ch. 30, 52 Stat. 31, known as the Agricultural Adjustment Act of 1938, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

PART B—MARKETING QUOTAS

SUBPART I—MARKETING QUOTAS—TOBACCO

§ 1314b. Leases of tobacco acreage allotments or quotas

[See main edition for text of (a) and (b)]

(c) Filing with county committees; determination of compliance with requirements; calculation of normal yield for transfer

The lease and transfer of any allotment shall not be effective until a copy of such lease is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with the provisions of this section. Any lease of Fluecured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of two thousand pounds filed on or after June 15 in any year shall not be effective unless the acreage planted on both the lessor and the lessee farms during the current marketing year was as much as 80 per centum of the farm acreage allotment in effect for such year. If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease and transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.

[See main edition for text of (d) to (i)]

(As amended June 25, 1977, Pub. L. 95–54, 91 Stat. 250.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95–54 substituted provision allowing leasing of flue-cured tobacco acreage-poundage quotas after June 15 of any year only between farms on which at least 80 per centum of the farm acreage allotment was planted for such year for provision which had formerly required only a 50 per centum planting.

§ 1314f. Nonquota tobacco

Notwithstanding any other provision of law, beginning with the 1975 crop, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under this chapter shall be subject to the quota for the kind of tobacco traditionally produced in the area: *Provided, however,* That this section shall not apply in any case in which the Secretary or his designee finds any such nonquota tobacco is readily and distinguishably different from any kind of tobacco produced under quota, because of seed variety, cultural practices, method of curing and other factors affecting its physical characteristics, as determined through the application of the Federal Standards of Inspection and Identification of quota types and the tobacco does not possess any of the distinguishable characteristics of a quota type. If marketing quotas are in effect for more than one kind of tobacco in an area, any nonquota tobacco produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.]. Notwithstanding any other provision of law, no marketing quota penalties shall be assessed as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which was determined through the application of the Federal Standards of Inspection and Identification of quota types to be Burley tobacco (Type 31) under the provisions of this section.

(As amended Nov. 4, 1978, Pub. L. 95–592, § 17, 92 Stat. 2534.)

AMENDMENT

1978—Pub. L. 95–592 added provision relating to the nonassessment of marketing quota penalties as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which was determined to be Burley tobacco (Type 31) under the provisions of this section.

SUBPART II—ACREAGE ALLOTMENTS—CORN

§ 1330. Supplemental provisions relating to wheat marketing quotas; marketing penalty for cotton and rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1978 THROUGH 1981

Pub. L. 95–113, title IV, § 406, Sept. 29, 1977, 91 Stat. 927, provided that: "Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended) [this section and section 1340 of this title] shall not be applicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981."

SUBPART III—MARKETING QUOTAS—WHEAT

§ 1331. Legislative finding of effect on interstate and foreign commerce and necessity of regulation

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, provided that: "Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938, as amended [sections 1331, 1332, 1333, 1334, 1335, 1336, 1338, 1339, 1379b, and 1379c of this title], shall not be applicable to the 1978 through 1981 crops of wheat."

§§ 1332 to 1334

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

These sections inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§ 1335. Small-farm exemption; small-farm base acreage; election; acreage allotment; land-use provisions; price support; wheat marketing certificates

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

This section inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§ 1336. Referendum

If a national marketing quota for wheat for one, two, or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 1335 of this title to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum, and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof, the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1978, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-fifth Congress, or (2) October 15, 1977.

(As amended June 17, 1977, Pub. L. 95-48, 91 Stat. 229.)

AMENDMENTS

1977—Pub. L. 95-48 substituted provisions extending the date for the conduct of the referendum with respect to the national marketing for wheat for the marketing year beginning June 1, 1978, by allowing the referendum to be conducted not later than thirty days after the adjournment sine die of the first session of the Ninety-fifth Congress or Oct. 15, 1977, whichever is earlier, for provisions which had set the time limits for the referendums with respect to the national marketing quotas for wheat for the marketing years beginning July 1, 1966, July 1, 1971, and July 1, 1974, respectively.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

This section inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§§ 1338, 1339

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

These sections inapplicable to the 1978 through 1981 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§ 1340. Supplemental provisions relating to wheat marketing quotas; marketing penalty for rice; crop loans on cotton, wheat, rice, tobacco, and peanuts

INAPPLICABILITY TO CROPS OF WHEAT PLANTED FOR HARVEST IN CALENDAR YEARS 1978 THROUGH 1981

This section inapplicable to the crops of wheat planted for harvest in the calendar years 1978 through 1981, see Pub. L. 95-113, title IV, § 406, Sept. 29, 1977, 91 Stat. 727, set out as a note under section 1330 of this title.

SUBPART IV—MARKETING QUOTAS—COTTON

§ 1342. National marketing quota; proclamation; amount; date of proclamation

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, provided that: "Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1342, 1343, 1344, 1345, 1346, and 1377 of this title], shall not be applicable to upland cotton of the 1978 through 1981 crops."

PRELIMINARY ALLOTMENTS FOR 1982 CROP OF UPLAND COTTON

Pub. L. 95-113, title VI, § 606, Sept. 29, 1977, 91 Stat. 940, provided that: "Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938, as amended [section 1379 of this title], shall again become effective as preliminary allotments for the 1982 crop."

§§ 1343, 1344

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

These sections inapplicable to upland cotton of the 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, set out as a note under section 1342 of this title.

§§ 1345, 1346

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

These sections inapplicable to upland cotton of the 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, set out as a note under section 1342 of this title.

SUBPART V—MARKETING QUOTAS—RICE

§ 1352. National acreage allotment and allocation

(a) Acreage allotments, 1976 through 1981

The Secretary shall establish for each of the 1976 through 1981 crops of rice a national acreage allotment in the amount of one million eight hundred thousand acres.

[*See main edition for text of* (b) *to* (e)]

(f) Excess acreage

Any acreage planted to rice in excess of the farm or producer acreage allotment in the crop years 1976 through 1981 shall not be taken into account in establishing farm, or producer acreage allotments in any year following such period.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VII, § 701, 91 Stat. 940.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "1976 through 1981" for "1976 and 1977".

Subsec. (f). Pub. L. 95-113 substituted "1976 through 1981" for "1976 and 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 701 of Pub. L. 95-113 provided in part that the amendment by section 701 of Pub. L. 95-113 is effective beginning with the 1978 crop of rice.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1441 of this title.

§§ 1353 to 1356

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF RICE

Pub. L. 95-113, title VII, § 703, Sept. 29, 1977, 91 Stat. 943, provided that: "Sections 353, 354, 355, 356, and 377 of the Agricultural Adjustment Act of 1938, as amended [sections 1353, 1354, 1355, 1356, and 1377 of this title], shall not be applicable to the 1978 through 1981 crops of rice."

SUBPART VI—MARKETING QUOTAS—PEANUTS

§ 1358. National marketing quota

[*See main edition for text of* (a) *and* (b)]

(c) Apportionment of national acreage allotment

(1) The national acreage allotment for 1951, less the acreage to be allotted to new farms under subsection (f) of this section, shall be apportioned among the States on the basis of the larger of the following for each State: (a) The acreage allotted to the State as its share of the 1950 national acreage allotment of two million one hundred thousand acres, or (b) the State's share of two million one hundred thousand acres apportioned to States on the basis of the average acreage harvested for nuts in each State in the five years 1945-1949: *Provided*, That any allotment so determined for any State which is less than the 1951 State allotment announced by the Secretary prior to February 16, 1938, shall be increased to such announced allotment and the acreage required for such increases shall be in addition to the 1951 national acreage allotment and shall be considered in determining State acreage allotments in future years. For any year subsequent to 1951, the national acreage allotment for that year shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made: *Provided*, That the peanut acreage allotment for the State of New Mexico shall not be reduced below the 1977 acreage allotment as increased pursuant to subsection (c)(2) of this section.

[*See main edition for text of* (2); (d) *to* (j)]

(k) National acreage allotment

The Secretary shall, not later than December 1 of each year, announce a national acreage allotment for peanuts for the following crop taking into consideration projected domestic use, exports, and a reasonable carryover: *Provided*, That such allotment shall be not less than one million six hundred and fourteen thousand acres.

(l) Minimum national poundage quota

The Secretary shall, not later than December 1 of each year, announce a minimum national poundage quota for peanuts for the following marketing year of the following amounts: 1978, 1,680,000 tons; 1979, 1,596,000 tons; 1980, 1,516,000 tons; and 1981, 1,440,000 tons. If the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the national poundage quota for the marketing year may be increased by the Secretary to the extent determined by the Secretary to be necessary to meet such requirements.

(m) Farm yield

For each farm for which a farm acreage allotment has been established, a farm yield for peanuts shall be determined. Such yield shall be equal to the average of the actual yield per acre on the farm for each of the three crop years in which yields were highest on the farm out of the five crop years 1973 through 1977: *Provided*, That if peanuts were not produced on the farm in at least three years during such five-year period or there was a substantial change in the operation of the farm during such period (including, but not limited to, a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that amount determined to be fair and reasonable on the basis of yields

established for similar farms which are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

(n) Farm base production poundage

For each farm, a farm base production poundage shall be established equal to the quantity determined by multiplying the farm peanut acreage allotment by the farm yield determined in accordance with subsection (m) of this section.

(o) Farm poundage quota

For each farm, a farm poundage quota shall be established by the Secretary for each marketing year equal to the farm base production poundage multiplied by a factor determined by the Secretary, such that the total of all farm poundage quotas will equal the national poundage quota for such marketing year. The poundage quota so determined, beginning with the 1979 crop for any farm, shall be increased by the number of pounds by which marketings of quota peanuts from the farm during the immediately preceding marketing year were less than the farm poundage quota: *Provided,* That total marketings shall not exceed actual production from the farm acreage allotment: *Provided further,* That the grower must have planted in such preceding marketing year that part of the farm allotment estimated on the basis of the farm yield to be sufficient to produce the total farm poundage quota: *Provided further,* That if the total of all such increases in individual farm poundage quotas exceeds 10 per centum of the national poundage quota for the marketing year, the Secretary shall adjust such increases so that the total of all increases does not exceed 10 per centum of the national poundage quota.

(p) Definitions

For the purposes of this part and title I of the Agricultural Act of 1949, as amended [7 U.S.C. 1441 et seq.]

(1) "quota peanuts" means, for any marketing year, any peanuts which are eligible for domestic edible use as determined by the Secretary, which are marketed or considered marketed from a farm, and which do not exceed the farm poundage quota of such farm for such year;

(2) "additional peanuts" means, for any marketing year, any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for such year but not in excess of the actual production of the farm acreage allotment;

(3) "crushing" means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary; and

(4) "domestic edible use" means use for milling to produce domestic food peanuts and seed and use on a farm.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, §§ 801(b), 802, 91 Stat. 944.)

REFERENCES IN TEXT

The Agricultural Act of 1949, as amended, referred to in subsec. (p), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051 as amended. Title I of the Agricultural Act of 1949, as amended, is classified generally to subchapter II (§ 1441 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-113, § 801(b), added proviso that the peanut acreage allotment for the State of New Mexico not be reduced below the 1977 acreage allotment as increased pursuant to subsec. (c)(2) of this section.

Subsecs. (k) to (p). Pub. L. 95-113, § 802, added subsecs. (k) to (p).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 801(b) of Pub. L. 95-113 provided in part that the amendment of subsec. (c)(1) Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

Section 802 of Pub. L. 95-113 provided in part that subsecs. (k) through (p) are effective for the 1978 through 1981 crops of peanuts.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF PEANUTS

Section 801(a) of Pub. L. 95-113 provided that: "Subsections (a) and (e) [of this section] shall not be applicable to the 1978 through 1981 crops of peanuts."

§ 1358a. Transfer of peanut acreage allotments

(a) Authority to permit transfers

Notwithstanding any other provision of law for the 1968 and succeeding crop years, the Secretary (1) shall permit the owner and operator of any farm for which a peanut acreage allotment is established under this chapter to sell or lease all or any part or the right to all or any part of such allotment to any other owner or operator of a farm in the same county for transfer to such farm; and (2) shall permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him.

[*See main edition for text of* (b) *to* (h)]

(i) Farm base production poundage as basis for transfers; change in acreage allotments

Notwithstanding any other provision of this section, transfers shall be on the basis of the farm base production poundage, and the acreage allotment for the receiving farm shall be increased by an amount determined by dividing the number of pounds transferred by the farm yield for the receiving farm, and the acreage allotment for the transferring farm shall be reduced by an amount determined by dividing the number of pounds transferred by the farm yield for the transferring farm.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 803, 91 Stat. 946.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 803(1), struck out ", if he determines that it will not impair the effective operation of the peanut marketing quota or price support program," following "the Secretary" and substituted "shall" for "may" wherever appearing.

Subsec. (i). Pub. L. 95-113, § 803(2), added subsec. (i).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 803 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective for the 1978 through 1981 crops of peanuts.

§ 1359. Marketing penalties

(a) The marketing of any peanuts in excess of the marketing quota for the farm on which such peanuts are produced, or the marketing of peanuts from any farm for which no acreage allotment was determined, shall be subject to a penalty at a rate equal to 120 per centum of the support price for quota peanuts for the marketing year (August 1 to July 31). The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 1445c(b) of this title and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section. Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer, or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent, and such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer. The Secretary may require collection of the penalty upon a portion of each lot of peanuts marketed from the farm equal to the proportion which the acreage of peanuts in excess of the farm-acreage allotment is of the total acreage of peanuts on the farm. If the person required to collect the penalty fails to collect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States and such amounts as are determined, in accordance with regulations prescribed by the Secretary, to be penalties incurred shall be transferred to the general fund of the Treasury of the United States. Amounts collected in excess of determined penalties shall be paid to such producers as the Secretary determines, in accordance with regulations prescribed by him, bore the burden of the payment of the amount collected. Such special account shall be administered by the Secretary and the basis for, the amount of, and the producer entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. Peanuts produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins. If any producer falsely identifies or fails to account for the disposition of any peanuts, an amount of peanuts equal to the farm yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. If any amount of peanuts produced on one farm is falsely identified by a representation that such peanuts were produced on another farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quotas, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of peanuts is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such peanuts are produced shall be reduced by a percentage similarly computed. Notwithstanding any other provisions of this subpart, no refund of any penalty shall be made because of peanuts kept on the farm for seed or for home consumption.

[*See main edition for text of* (b) *to* (e)]

(f) Only quota peanuts may be retained for use as seed or for other uses on a farm and when so retained shall be considered as marketings of quota peanuts. Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use. Seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

(g) Upon a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by such handler from such crop for such marketing, such handler shall be subject to a penalty equal to 120 per centum of the loan level for quota peanuts on the peanuts which the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

(h) The Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 1445c(c) of this title. Quota and additional peanuts of like type and segregation or quality may, under regulations prescribed by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

(i) Handlers may, under regulations prescribed by the Secretary, contract with producers for the purchase of additional peanuts for crushing, export, or both. All such contracts shall be completed and submitted to the Secretary (or if designated by the Secretary, the area association) for approval prior to June 15 of the year in which the crop is produced.

(j) Subject to the provisions of section 1427 of this title, any peanuts owned or controlled by the Commodity Credit Corporation may be

made available for domestic edible use in accordance with regulations established by the Secretary. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus (1) 100 per centum of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season upon delivery by the producer, or (2) 105 per centum of the loan value of quota peanuts if the additional peanuts are sold after delivery by the producer but not later than December 31 of the marketing year, or (3) 107 per centum of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 804, 91 Stat. 946.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 804(1)-(3), substituted "penalty at a rate equal to 120 per centum of the support price for quota peanuts" for "penalty at a rate equal to 75 per centum of the support price for peanuts" and "farm yield" for "normal yield" and added provision that the marketing of any additional peanuts from a farm be subject to the 120 per centum penalty unless the peanuts, in accordance with regulations established by the Secretary, are placed under loan at the additional loan rate under the loan program made available under section 1445c(b) of this title and not redeemed by the producers or are marketed under contracts between handlers and producers pursuant to the provisions of subsection (i) of this section.

Subsecs. (f) to (j). Pub. L. 95-113, § 804(4), added subsecs. (f) to (j).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 804 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445c of this title.

PART C—ADMINISTRATIVE PROVISIONS

SUBPART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

§ 1373. Reports and records

(a) Persons reporting

This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice, peanuts, or tobacco, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice, peanuts, or tobacco from producers, all persons engaged in the business of redrying, prizing, or stemming tobacco for producers, all farmers engaged in the production of peanuts, all brokers and dealers in peanuts, all agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subchapter. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of $100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed $5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both.

[*See main edition for text of* (b) *and* (c)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 805, 91 Stat. 947.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 inserted reference to all farmers engaged in the production of peanuts.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 805 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

§ 1374. Measurement of farms and report of plantings; remeasurement

(a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973

crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1981 crops.

[See main edition for text of (b) and (c)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title VI, § 605, 91 Stat. 940.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "1981" for "1977" in the provisions setting the last year for application of the 1971 through 1973 skiprow patterns in classifying the acreage planted to cotton.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1377. Preservation of unused acreage allotments

In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 1344 of this title) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments, to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided*, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years as acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 1444(b) of this title, 75 per centum of the farm domestic allotment established under section 1350 of this title for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the Great Plains program): *Provided further*, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this subchapter pertaining to the release and reapportionment of acreage allotments.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VIII, § 806, 91 Stat. 947.)

AMENDMENTS

1977—Pub. L. 95-113 inserted "or, in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota" following "of the farm acreage allotment for such year".

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 806 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective for the 1978 through 1981 crops of peanuts.

INAPPLICABILITY TO UPLAND COTTON OF THE 1978 THROUGH 1981 CROPS

This section inapplicable to upland cotton of the 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 601, Sept. 29, 1977, 91 Stat. 933, set out as a note under section 1342 of this title.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF RICE

This section not applicable to the 1978 through 1981 crops of rice, see Pub. L. 95-113, title VII, § 703, Sept. 29, 1977, 91 Stat. 943, set out as a note under section 1353 of this title.

PART D—WHEAT MARKETING ALLOCATION

§§ 1379b, 1379c

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS OF WHEAT

These sections inapplicable to the 1978 crops of wheat, see Pub. L. 95-113, title IV, § 404, Sept. 29, 1977, 91 Stat. 927, set out as a note under section 1331 of this title.

§§ 1379d to 1379j

INAPPLICABILITY TO WHEAT PROCESSORS OR EXPORTERS DURING THE PERIOD JULY 1, 1973, THROUGH MAY 31, 1982

Pub. L. 95-113, title IV, § 403, Sept. 29, 1977, 91 Stat. 926, provided that: "Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 [sections 1379d, 1379e, 1379f, 1379g, 1379h, 1379i, and 1379j of this title] (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period July 1, 1973, through May 31, 1982."

PART F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

SUBPART I—MISCELLANEOUS

§ 1385. Finality of payments and loans; substitution of beneficiaries

The facts constituting the basis for any Soil Conservation Act [16 U.S.C. 590a et seq.] payment, any payment under the wheat, feed grain, upland cotton, and rice programs authorized by the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes in-

competent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 1348 of this title.

(As amended Sept. 29, 1977, Pub. L. 95-113, title IV, § 405, 91 Stat. 927.)

REFERENCES IN TEXT

The Soil Conservation Act, referred to in text, probably means the Soil Conservation and Domestic Allotment Act, act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, which is classified generally to chapter 3B (§ 590a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

The Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set under section 1421 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-113 substituted "The facts constituting the basis for any Soil Conservation Act payment, any payment under the wheat, feed grain, upland cotton, and rice programs authorized by the Agricultural Act of 1949 and this chapter, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government "for" The facts constituting the basis for any payment under the Soil Conservation and Domestic Allotment Act, as amended, parity payment, payments under the cotton set-aside program, payments under the rice program authorized by section 1441(g) of this title, payments (including certificates) under the wheat and feed grain set-aside programs, payment under section 1339 of this title, loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government".

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 405 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective only for the 1978 through 1981 crops.

CHAPTER 35A—PRICE SUPPORT OF AGRICULTURAL COMMODITIES

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

Sec.

1444c. Loan rates and target prices for 1977 through 1981 feed grain crops [New].
(a) Loans and purchases; reduction.
(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments.
(c) Fair and equitable sharing of payments.
(d) Program acreages; proclamation; revision; adjustments; program allocation factor.
(e) Payment yield.
(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification.
(g) Defaults.
(h) Rules and regulations.
(i) Commodity Credit Corporation.
1445b. Loan rates and target prices for 1977 through 1981 wheat crops [New].
(a) Loans and purchases; reduction.
(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments.
(c) Fair and equitable sharing of payments.
(d) Program acreages; proclamation; revision; adjustments; program allocation factor.
(e) Payment yield.
(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification.
(g) Defaults.
(h) Rules and regulations.
(i) Commodity Credit Corporation.
1445c. Price support program for 1978 through 1981 crops of peanuts [New].
(a) Support levels for quota peanuts; adjustments.
(b) Support levels for additional peanuts.
(c) Warehouse storage loans; pools; records; net gains.
1445d. Special wheat acreage grazing and hay program for 1978 through 1981 crop years [New].
(a) Authorization for program; acreage designation; payment.
(b) Specific farm acreage.
(c) Determination of payment.
(d) Other acreage set-aside programs.
(e) Rules and regulations.
(f) Commodity Credit Corporation.
1445e. Producer storage program for wheat and feed grains [New].
(a) Formulation and administration; safeguards.
(b) Terms and conditions; waiver.
(c) Announcement.
(d) Restriction.
(e) Grain reconcentration.
(f) Purchases; daily list.
(g) Commodity Credit Corporation.
1445f. International Emergency Food Reserve [New].
1445g. Production of commodities for conversion into industrial hydrocarbons; terms and conditions; incentive payments; regulations; appropriations; effective date [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1301, 1305, 1308, 1309, 1310, 1314f, 1334b, 1380f, 1380p, 1385, 1446c, 1745 of this title; title 26 section 451; title 43 sections 620c, 1524.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1421. Price support

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1444, 1444b, 1444c, 1445c, 1448 of this title.

§ 1423. Adjustment of support prices

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1445c of this title.

§ 1427. Sale of farm commodities; policies and rates of sale; exceptions; use of commodities to relieve distress

The Commodity Credit Corporation may sell any farm commodity owned or controlled by it at any price not prohibited by this section. In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should give consideration to the establishing of such policies with respect to prices, terms, and conditions as it determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop. The Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 5 per centum above the current support price for such commodity, plus reasonable carrying charges: *Provided*, That effective with the beginning of the marketing year for the 1961 crop, the Corporation shall not sell any upland or extra long staple cotton for unrestricted use at less than 15 per centum above the current support price for cotton plus reasonable carrying charges, except that the Corporation may, in an orderly manner and so as not to affect market prices unduly, sell for unrestricted use at the market price at the time of sale a number of bales of cotton equal to the number of bales by which the national marketing quota for such marketing year is reduced below the estimated domestic consumption and exports for such marketing year pursuant to the provisions of section 1342 of this title: *Provided further*, That beginning August 1, 1964, the Commodity Credit Corporation may sell upland cotton for unrestricted use at not less than 105 per centum of the current loan rate for such cotton under section 1444(a) of this title plus reasonable carrying charges: *Provided*, That the Corporation shall not sell any of its stocks of wheat, corn, grain, sorghum, barley, oats, and rye, respectively, at less than 115 per centum of the current national average loan rate for the commodity, adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate, plus reasonable carrying charges. The foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts and oilseeds for the extraction of oil; (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; (E) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. Notwithstanding the foregoing, the Corporation, on such terms and conditions as the Secretary may deem in the public interest, shall make available any farm commodity or product thereof owned or controlled by it for use in relieving distress (1) in any area in the United States including the Virgin Islands declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (2) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended, and shall make feed owned or controlled by it available at any price not less than 75 per centum of the current basic county loan rate (or a comparable price if there is no current basic county loan rate) for assistance in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep and goats, and their offspring, in any area of the United States including the Virgin Islands where, because of flood, drought, fire, hurricane, earthquake, storm, disease, insect infestation, or other catastrophe in such areas, the Secretary determines that an emergency exists which warrants such assistance, such feed to be made available only to persons who do not have, and are unable to obtain through normal channels of trade without undue financial hardship, sufficient feed for such lifestock: *Provided*, That the Secretary may provide for the furnishing of feed or mixed feed, in accordance with regulations prescribed by him, to such persons by feed dealers under an arrangement whereby the feed grains (or other feed being sold by the Corporation) in the feed so furnished would be replaced with feed owned or controlled by the Corporation and sold to such persons at a price determined as provided above. Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making such commodity available beyond the cost of the commodities to the Corporation in store and the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area. Nor shall the foregoing restrictions apply to sales or commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the Corporation's operations because of the small quantities involved, or because of age, location or questionable continued storability, but such sales shall be offset by such purchases of commodities as the Corporation determines are necessary to prevent such sales from substantially impairing any price-support program or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for such commodities for unrestricted use. For the purposes of this section, sales for export shall not only include sales made on condition that the identical commodities sold be exported, but shall also include sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form. Notwithstanding any other provision of law, (1) the

Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges and (2) the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly. Notwithstanding any other provision of this section, effective August 1, 1968, the Commodity Credit Corporation shall make available during each marketing year for sale for unrestricted use at market prices at the time of sale, a quantity of American grown extra long staple cotton equal to the amount by which the production of such cotton in the calendar year in which such marketing year begins is less than the estimated requirements of American grown extra long staple cotton for domestic use and for export for such marketing year: *Provided*, That no sales shall be made at less than 115 per centum of the loan rate for extra long staple cotton under section 1441(f) of this title beginning with the marketing year for the first crop for which the national marketing quota for extra long staple cotton is not established under paragraph (3) of section 1347(b) of this title. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly.

(Oct. 31, 1949, ch. 792, title IV, § 407, 63 Stat. 1055; July 10, 1954, ch. 469, title III, § 308, formerly § 301, 68 Stat. 458, renumbered Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(1), 91 Stat. 548, and amended July 29, 1954, ch. 643, 68 Stat. 583; Jan. 28, 1956, ch. 14, 70 Stat. 6; Aug. 28, 1958, Pub. L. 85–835, title I, § 109, 72 Stat. 993; Aug. 7, 1961, Pub. L. 87–127, 75 Stat. 293; Sept. 27, 1962, Pub. L. 87–703, title III, § 325(2), title IV, § 404, 76 Stat. 631, 632; Apr. 11, 1964, Pub. L. 88–297, title I, § 104, title II, § 204, 78 Stat. 175, 183; Sept. 11, 1964, Pub. L. 88–585, § 1, 78 Stat. 927; Nov. 3, 1965, Pub. L. 89–321, title IV, § 404, 79 Stat. 1197; Nov. 11, 1966, Pub. L. 89–808, § 3(e), 80 Stat. 1538; Aug. 11, 1968, Pub. L. 90–475, § 7, 82 Stat. 703; Oct. 11, 1968, Pub. L. 90–559, § 1(5), 82 Stat. 996; Nov. 30, 1970, Pub. L. 91–524, title IV, § 409, title VI, § 603, 84 Stat. 1367, 1377; Sept. 29, 1977, Pub. L. 95–113; title IV, § 408, title VI, § 603, 91 Stat. 927, 939.)

PRIOR PROVISIONS

A prior section 308 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 13, 73 Stat. 609, and amended Sept. 27, 1962, Pub. L. 87–703, title II, § 203, 76 Stat. 611, which enacted section 1697 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1977—Pub. L. 95–113 re-enacted without change the amendments made in 1970 by section 409 of Pub. L. 91–524 which had established a floor for sales of wheat and feed grains in inventory for unrestricted use at 115 per centum of the current national average loan rate for the commodity adjusted for current market differentials reflecting grade, quality, location, and other value factors, plus reasonable carrying charges, and which had changed the price at which purchases had to be made to offset sales in the interest of the efficient conduct of the Corporation's operations to an amount not exceeding the minimum sales price for the commodity for unrestricted use, and re-enacted the amendment made in 1970 by section 603 of Pub. L. 91–524 with regard to the sale of upland cotton by the Corporation with the single change of substituting "at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton" for "at less than 110 per centum of the loan rate for Middling one-inch upland cotton" in the provisions setting the minimum price at which the Corporation shall sell upland cotton for unrestricted use.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 408 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113, which re-enacted without change the amendment first made by section 409 of Pub. L. 91–524 in 1970 establishing a floor for sales of wheat and feed grains and changing the price at which purchases must be made to offset sales in the interest of the efficient conduct of the Corporation's operations, is effective only with respect to the marketing years for the 1978 through 1981 crops.

Section 603 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113, which re-enacted with some changes [see 1977 Amendment note] the amendment first made by section 603 of Pub. L. 91–524 in 1970 relating to the sale of upland cotton by the Corporation, is effective only with respect to the period beginning Aug. 1, 1978, and ending July 31, 1982.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1359, 1427a, 1428, 1433, 1445e, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1712, 1721, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b, 1744, 1853 of this title; title 50 App. section 2093.

§ 1427a. Reserve inventories for alleviation of distress of natural disaster

[*See main edition for text of* (a)]

(b) Acquisition of commodities through price support program

The Secretary shall acquire such commodities through the price support program. However, if the Secretary determines that no wheat, feed grains, or soybeans are available through the price support program at locations where they may be economically utilized to alleviate distress caused by a natural disaster, the Secretary is authorized to purchase through the facilities of the Commodity Credit Corporation such wheat, feed grains, soybeans, hay, or other live-

stock forages as the Secretary deems necessary for disposition in accordance with the authority provided in subsection (d) of this section. The Secretary may acquire wheat, feed grains, soybeans, hay, or other livestock forages at such locations, at such times, and in such quantities as the Secretary finds necessary and appropriate and may pay such transportation and other costs as may be required to permit disposition of such wheat, feed grains, soybeans, hay, and other livestock forages under subsection (d) of this section.

[*See main edition for text of* (c)]

(d) Additional authorization for disposition of commodities to relieve distress or for civil defense emergencies

The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 (88 Stat. 143, as amended; 42 U.S.C. 5121), and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), or section 2267 of this title; or (2) use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).

[*See main edition for text of* (e) *to* (h)]

(As amended Pub. L. 95–113, title XI, § 1103, Sept. 29, 1977, 91 Stat. 953.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974 (88 Stat. 143, as amended; 42 U.S.C. 5121), referred to in subsec. (d), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The Act of September 21, 1959, referred to in subsec. (d), is Pub. L. 86–299, Sept. 21, 1959, 73 Stat. 574, as amended, which is set out as a note under section 1427 of this title.

The Federal Civil Defense Act of 1950, as amended, (50 U.S.C. App. 2251–2297), referred to in subsec. (d), is act Jan. 12, 1951, ch. 1228, 64 Stat. 1245, as amended, which is classified generally to section 2251 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2251 of Title 50, App. and Tables.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95–113, § 1103(a),. added provisions authorizing the Secretary to act if it is determined that no wheat, feed grains, or soybeans are available through the price support program at locations where they can be economically utilized to alleviate distress caused by a natural disaster.

Subsec. (d). Pub. L. 95–113, § 1103(b), substituted "(A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 1427 of this title, the Act of September 21, 1959, or section 2267 of this title" for "(a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1445e of this title.

§ 1428. Definitions

For the purposes of this Act—

[*See main edition for text of* (a)]

(b) A "cooperator" with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary: *Provided*, That for upland cotton a cooperator shall be a producer on whose farm the acreage planted to such cotton does not exceed the cooperator percentage, which shall be in the case of the 1966 crop, 87.5 per centum of such farm acreage allotment and, in the case of each of the 1967 through 1970 crops, such percentage, not less than 87.5 or more than 100 per centum, of such farm acreage allotment as the Secretary may specify for such crop, except that in the case of small farms (i.e. farms on which the acreage allotment is 10 acres or less, or on which the projected farm yield times the acreage allotment is 3,600 pounds or less, and the acreage allotment has not been reduced under section 1344(m) of this title) the acreage of cotton on the farm shall not be required to be reduced below the farm acreage allotment: *And provided*, That for the 1971 through 1977 crops of upland cotton a cooperator shall be a producer on a farm on which a farm base acreage allotment has been established who has set aside the acreage required under section 1444(e) of this title: *Provided further*, That for the 1976 through 1981 crops of rice, a cooperator shall be a person who produces rice on a farm for which a farm acreage allotment has been established or to which a producer acreage allotment has been allocated and, if a set-aside is in effect, who has set aside any acreage required under section 1441(g) of this title. *Provided further*, That for the 1978 through 1981 crops of upland cotton, a cooperator shall be a producer on a farm who has set aside the acre-

age required under section 1444(f) of this title. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

[See main edition for text of (c) to (j)]

(k) References made in sections 1422, 1423, 1426, and 1431 of this title to the terms "support price," "level of support," and "level of price support" shall be considered to apply as well to the level of loans and purchases for wheat and feed grains under this Act; and references made to the terms "price support," "price support operations," and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for wheat and feed grains under this Act.

(*l*) References made in sections 1422, 1423, 1426, and 1431 of this title to the terms "support price," "level of support," and "level of price support" shall be considered to apply as well to the level of loans and purchases for upland cotton under this Act; and references made to the terms "price support," "price support operations," and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for upland cotton under this Act.

(m) Reference made in sections 1422, 1423, 1426, 1427, and 1431 of this title to terms "support price", "level of support", and "level of price support" shall be considered to apply as well to the level of loans and purchases for rice under this Act, and references made to the terms "price support", "price support operation", and "price support program" in such sections and in section 1421(a) of this title shall be considered as applying as well to the loan and purchase operations for such rice in this Act.

(As amended Sept. 29, 1977, Pub. L. 95-113, title IV, § 407, title VI, § 604, title VII, §§ 704, 705, 91 Stat. 927, 939, 944.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-113 §§ 604(a), 704, added proviso defining cooperator for purposes of the 1978 through 1981 crops of upland cotton as a producer on a farm who has set aside the acreage required under section 1444(f) of this title and substituted "1976 through 1981 crops of rice" for "1976 and 1977 crops of rice" in the proviso defining cooperator for purposes of specific crops of rice.

Subsec. (k). Pub. L. 95-113, § 407, re-enacted subsec. (k) without change.

Subsec. (*l*). Pub. L. 95-113, § 604(b), re-enacted subsec. (*l*) without change.

Subsec. (m). Pub. L. 95-113, § 705, re-enacted subsec. (m) without change.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 407 of Pub. L. 95-113 provided in part that the re-enactment of subsec. (k) without change by Pub. L. 95-113 is effective for the 1978 through 1981 crops.

Section 604(b) of Pub. L. 95-113 provided in part that the re-enactment of subsec. (*l*) without change by Pub. L. 95-113 is effective for the 1978 through 1981 crops.

Section 705 of Pub. L. 95-113 provided in part that the re-enactment of subsec. (m) without change by Pub. L. 95-113 is effective for the 1978 through 1981 crops.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1444 of this title.

§ 1431. Disposition of commodities to prevent waste; eligible recipients; barter; estimates; reprocessing and other charges

In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of clause (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clause (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency, or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals,

to the extent that needy persons are served, be donated for any such use prior to any other use or disposition.

(Oct. 31, 1949, ch. 792, title IV, § 416, 63 Stat. 1058; July 10, 1954, ch. 469, title III, § 309, formerly § 302, 68 Stat. 458, renumbered Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(1), 91 Stat. 548, and amended May 28, 1956, ch. 327, title II, § 212, 70 Stat. 203; July 2, 1958, Pub. L. 85-483, § 1, 72 Stat. 286; Aug. 26, 1954, ch. 937, title II, § 402, 68 Stat. 843; July 24, 1959, Pub. L. 86-108, ch. II, § 205(c), 73 Stat. 250; Sept. 27, 1962, Pub. L. 87-703, title II, § 202, 76 Stat. 611; Oct. 8, 1964, Pub. L. 88-638, § 4, 78 Stat. 1038; Nov. 11, 1966, Pub. L. 89-808, § 3(c), 80 Stat. 1538; Apr. 17, 1970, Pub. L. 91-233, 84 Stat. 199; Oct. 30, 1972, Pub. L. 92-603, title IV, § 411(g), 86 Stat. 1492; Sept. 29, 1977, Pub. L. 95-113, title XIII, § 1302(a)(2), 91 Stat. 979.)

AMENDMENTS

1977—Pub. L. 95-113 struck out provision that no person who is eligible (or upon application would be eligible) to receive supplemental security income under title XVI of the Social Security Act shall be eligible, with certain exceptions, to participate in any program conducted under this section.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1302(b) of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 2012 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 93-233, § 8(b)(2), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2(2), July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3(2), June 30, 1977, 915 Stat. 255, provided that: "The last sentence of section 416 of the Act of October 31, 1949 [this section] (as added by section 411(g) of Public Law 92-603) [see 1972 Amendment Note above] shall not be effective for the period ending September 30, 1978." [Amendment by Pub. L. 93-335, effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as a note under section 1382 of Title 42, The Public Health and Welfare.] [Section 3 of Pub. L. 95-59 provided in part that the amendment of section 8 of Pub. L. 93-233 by section 3(2) of Pub. L. 95-59 is effective July 1, 1977.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1428, 1431b, 1431c, 1431d, 1446a, 1692, 1702, 1703, 1704b, 1705, 1707, 1709, 1712, 1721, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1731, 1732, 1733, 1734, 1735, 1736, 1736a, 1736b of this title; title 22 section 1922; title 42 sections 1758, 1761, 1762a, 1777, 1786, 3030a, 3045f.

SUBCHAPTER II—BASIC AGRICULTURAL COMMODITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1358 of this title.

§ 1441. Price support levels

The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a) to (c) of this section as follows:

[*See main edition for text of* (a) *to* (e)]

(f) The provisions of this Act relating to price support for cotton shall apply severally to (1) American upland cotton and (2) extra long staple cotton described in subsection (a) of section 1347 of this title and ginned as required by subsection (e) of section 1347 of this title, except that, notwithstanding any other provision of this Act, price support shall be made available to cooperators for the 1968 and each subsequent crop of extra long staple cotton, if producers have not disapproved marketing quotas therefor through loans at a level which is not less than 50 per centum or more than 100 per centum in excess of the loan level established for Strict Low Middling one and one-sixteenth inch upland cotton of such crop at average location in the United States (except that such loan level for extra long staple cotton shall in no event be less than 35 cents per pound) and, in addition, through price-support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 per centum or more than 90 per centum of the parity price for extra long staple cotton as of the month in which the payment rate provided for by this subsection is announced. Such payment with respect to any farm shall be made on the quantity of extra long staple cotton, determined in accordance with regulations prescribed by the Secretary, equal to either (1) for a farm on which the acreage planted to such cotton does not exceed an acreage determined by multiplying the farm acreage allotment by the price-support payment factor established by the Secretary for each crop, the actual production of such cotton on the farm, or (2) for a farm on which the acreage planted to such cotton exceeds an acreage determined by multiplying the farm acreage allotment by the price-support payment factor but does not exceed the farm acreage allotment, the actual production of such cotton on the farm attributable to the number of acres determined by multiplying the farm acreage allotment by such price-support payment factor. The Secretary shall establish the price-support payment factor for each such crop of extra long staple cotton by dividing the 1966 national acreage allotment for such cotton by the national acreage allotment proclaimed for such crop, except that such factor shall not be more than one. The Secretary shall provide for the sharing of price-support payments under this subsection among producers on a farm on the basis of their respective shares in the crop of extra long staple cotton produced on the farm, or the proceeds therefrom. The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall also apply to payments under this subsection. The Commodity Credit Corporation is authorized to utilize its capital funds and other assets for the purpose of making the payments authorized in this subsection and to pay administrative expenses necessary in carry-

ing out this subsection. Disapproval by producers of the quota proclaimed under section 1347 of this title shall place into effect the provisions of subsection (d)(3) of this section with respect to the extra long staple cotton described in subsection (a) of section 1347 of this title. Nothing contained herein shall affect the authority of the Secretary under section 1422 of this title to make support available for extra long staple cotton in accordance with such section 1422 of this title.

[*See main edition for text of (g)*]

(h) Notwithstanding any other provision of law—

(1) For the 1978 through 1981 crops of rice, the established price for the purpose of making payments under this subsection shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

(2) The Secretary shall make available, to cooperators in the several States of the United States, loans and purchases for each of the 1978 through 1981 crops of rice at such level as bears the same ratio to the loan level for the preceding year's crop as the established price for each such crop bears to the established price for the preceding year's crop. If the Secretary determines that loans and purchases at the foregoing level for any of the 1978 through 1981 crops would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may, notwithstanding the foregoing provisions of this paragraph, establish loans and purchases for such crop or crops at such level, not less than $6.31 per hundredweight nor more than the parity price thereof, as the Secretary determines necessary to avoid such consequences. The loans and purchases shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying the allotment by the yield established for the farm, as determined in the manner described in the second sentence of paragraph (4)(A) of this subsection.

(3) The Secretary shall make available to cooperators payments for each of the 1978 through the 1981 crops of rice grown in the several States of the United States at a rate equal to the amount by which the established price for the crop of rice exceeds the higher of—

(A) the national average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(B) the loan level determined under paragraph (2) for such crop.

(4)(A) The payments for each such crop shall be made available to cooperators on a farm with respect to a quantity of rice determined by multiplying that portion of the allotment planted to rice by the yield established for the farm: *Provided*, That an acreage on the farm which the Secretary determines was not planted to rice because of drought, flood, or other natural disaster, or other condition beyond the control of the cooperators shall be considered to be an acreage planted to rice. The yield for the farm for any year shall be determined on the basis of the actual yields per harvested acre for the three preceding years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, other natural disaster, or other condition beyond the control of the cooperators. The total quantity on which payments would otherwise be payable to a cooperator for any crop under this subparagraph shall be reduced by the quantity on which any disaster payment is made to the cooperator on a farm for the crop under this paragraph.

(B) Effective only with respect to the 1978 and 1979 crops of rice, if the Secretary determines that the persons involved in producing rice on a farm are prevented from planting all or any portion of the acreage allotments of producers on the farm or the farm acreage allotment to rice or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to cooperators on a farm in an amount determined by multiplying (i) the number of such acres so affected, by (ii) the yield established for the farm, by (iii) 33⅓ per centum of the established price for rice, except that the Secretary shall make no payment pursuant to this sentence on a farm from which acres were transferred under section 1352(d) of this title, with respect to the transferred acreage.

(C) Effective only with respect to the 1978 and 1979 crops of rice, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of rice which the persons involved in producing rice on a farm are able to harvest on the acreage allotments of producers on the farm or the farm acreage allotment is less than the result of multiplying 75 per centum of the yield established for the farm by the acreage within the allotment planted to rice for harvest for such crop, the Secretary shall make a farm disaster payment to the cooperators on the farm for the deficiency in production below 75 per centum of the crop at a rate equal to 33⅓ per centum of the established price for the crop.

(D) Any payment made under subparagraphs (B) and (C) of this paragraph with regard to acres transferred under section 1352(d) of this title, shall be calculated with respect to the farm yield established on the farm to which such acres were transferred.

(5) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of rice will, in the absence of such set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments under this subsection, the cooperators on a farm must set aside and devote to conservation uses an acreage of cropland equal to (i) such percentage of the farm acreage allotment as may be specified by the Secretary (not to exceed 30 per centum of the farm acreage allotment), plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago, ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

(6) The Secretary may make land diversion payments to cooperators, whether or not a set-aside for rice is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made to cooperators on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such cooperators. The amounts payable to cooperators under land diversion contracts may be determined through the submission of bids for such contracts by cooperators in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the cooperators and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(7) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the cooperator agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(8) If the operator of the farm desires to participate in the program formulated under this subsection the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection shall be made available to cooperators on such farm only if such cooperators set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator of the farm agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the cooperators on the farm, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of any emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of rice.

(9) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis in payments under this subsection.

(10) In any case in which the failure of a cooperator to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

(11) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

(12) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(13) The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to payments under this subsection.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VI, § 607, title VII, § 702, 91 Stat. 940.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-113, § 607, substituted "Strict Low Middling one and one-sixteenth inch" for "Middling one-inch".

Subsec. (h). Pub. L. 95–113, § 702, added subsec. (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 702 of Pub. L. 95–113 provided in part that subsec. (h) is effective only for the 1978 through 1981 crops of rice.

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, except as otherwise provided, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

EXEMPTION OF DISASTER PAYMENT LIMITATIONS RESPECTING 1977 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Term "payments" as used in subsec. (g)(13) of this section shall not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss with respect to the 1977 crops of wheat, feed grains, upland cotton, and rice, see Pub. L. 95–156, set out as a note under section 1307 of this title.

§ 1444. Cotton price support levels

[See main edition for text of (a) to (e)]

(f) Production incentives, loan rates, target prices, and set-aside program for 1978 through 1981 crops

(1) The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available for the 1978 through 1981 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States the smaller of (i) 85 percent of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during three years of the five-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, or (ii) 90 percent of the average, for the fifteen-week period beginning July 1 of the year in which the loan level is announced, of the five lowest priced growths of the growths quoted for Strict Middling one and one-sixteenth inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between such average Northern Europe price quotation of such quality of cotton and the market quotations in the designated United States spot markets for Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9)): *Provided,* That in no event shall such loan level be less than 48 cents per pound. If for any crop the average Northern Europe price determined under clause (ii) of the first sentence of this paragraph is less than the average United States spot market price determined under clause (i) of the first sentence of this paragraph, the Secretary may, notwithstanding the foregoing provisions of this paragraph, increase the loan level to such level as the Secretary may deem appropriate, not in excess of the average United States spot market price determined under clause (i) of the first sentence of this paragraph. The loan level for any crop of cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective, and such level shall not thereafter be changed. Nonrecourse loans provided for in this subsection, shall, upon request of the cooperator during the tenth month of the loan period for the cotton, be made available for an additional term of eight months: *Provided,* That such request to extend the loan period shall not be approved in a month when the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for the preceding month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six month period: *Provided further,* That whenever the Secretary determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for a month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton subject to the following conditions:

(A) The amount of the special quota shall be equal to twenty-one days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent three months for which data are available;

(B) If a special quota has been established under this subsection during the preceding twelve months, the amount of the quota next established hereunder shall be the smaller of twenty-one days of domestic mill consumption calculated as set forth in clause (A) of this subsection or the amount required to increase the supply to 130 per centum of the demand;

(C) As used in clause (B) of this paragraph, the term "supply" means, using the latest official data of the Bureau of the Census, the United States Department of Agriculture, and the United States Department of the Treasury, the carryover of upland cotton at the beginning of the marketing year (adjusted to four hundred and eighty-pound bales) in which the special quota is established, plus production of the current crop, plus imports to the latest date available during the marketing year, and the term "demand" means the average seasonally adjusted annual rate of domestic mill consumption in the most recent three months for which data are available, plus the larger of average exports of upland cotton during the preceding six marketing years or cumulative exports of upland cotton, plus outstanding export sales for the marketing year in which the special quota is established; and

(D) When a special quota is established under the provisions of this subsection, a ninety-day period from the effective date of the proclamation shall be allowed for entering cotton under such quota.

(2) Notwithstanding the foregoing provisions of this subsection, a special quota period shall not be established that overlaps an existing special quota period.

(3) Notwithstanding any other provision of law, the foregoing provisions of this subsection with respect to extension of the loan period and to proclamation of the special quota shall become effective October 1, 1977, even though the cotton may be of a crop prior to the 1978 crop.

(4) Payments shall be made for each crop of upland cotton to the producers on each farm at a rate equal to the amount by which the higher of—

(A) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

(B) the loan level determined under paragraph (1) for such crop

is less than the established price per pound times in each case (i) the farm program acreage for cotton, determined in accordance with paragraph (9) of this subsection (but in no event on a greater acreage than the acreage actually planted to cotton for harvest), multiplied by (ii) the farm program payment yield for cotton determined in accordance with paragraph (10) of this subsection. For the 1978 through 1981 crops, the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop: *Provided*, That in no event shall the established price for the 1978 crop be less than 52 cents per pound and for each subsequent crop be less than 51 cents per pound. The total quantity on which payments would otherwise be payable to a producer for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (5)(B) of this subsection.

(5)(A) Effective only with respect to the 1978 and 1979 crops of upland cotton, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for cotton to cotton or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to cotton for harvest (including any acreage which the producers were prevented from planting to cotton or other nonconserving crop in lieu of cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33⅓ per centum of the established price for the crop.

(B) Effective only with respect to the 1978 and 1979 crops of upland cotton, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of cotton which the producers are able to harvest on any farm is less than the result of multiplying 75 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted to harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 33⅓ per centum of the established price for the crop for the deficiency in production below 75 per centum for the crop.

(6) The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

(7) The Secretary shall establish for each of the 1978 through 1981 crops of upland cotton a national program acreage. Such national program acreage shall be announced by the Secretary not later than December 15 of the calendar year preceding the year for which such acreage is established. The Secretary may revise the national program acreage first announced for any crop year for the purpose of determining the allocation factor under paragraph (8) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall announce such revised national program acreage as soon as it has been made. The national program acreage shall be the number of harvested acres the Secretary determines (on the basis of the estimated weighted national average of the farm program yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. The national program acreage shall be subject to such adjustment as the Secretary determines necessary, taking into consideration the estimated carryover supply, so as to provide for an adequate but not excessive total supply of cotton for the marketing year for the crop for which such national program acreage is established. In no event shall the national program acreage be less than 10 million acres.

(8) The Secretary shall determine a program allocation factor for each crop of upland cotton. The allocation factor (not to exceed 100 per centum) shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop.

(9) The individual farm program acreage for each crop of upland cotton shall be determined by multiplying the allocation factor by the

acreage of cotton planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the cotton acreage eligible for payment on a farm shall not be further reduced by application of the allocation factor if the producers reduce the acreage of cotton planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the announcement of the national program acreage made not later than December 15 of the calendar year preceding the year for which such acreage is established. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of cotton planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

(10) The farm program payment yield for each crop of upland cotton shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. In case farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available. Notwithstanding the foregoing provisions of this paragraph, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this paragraph. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(11)(A) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments on upland cotton, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage as determined by the Secretary (but not to exceed 28 per centum), of the acreage of upland cotton planted for harvest for the crop year for which a set-aside is in effect. The set-aside acreage shall be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income. The Secretary may limit the acreage planted to upland cotton. Such limitation shall be applied on a uniform basis to all cotton-producing farms. Producers on a farm who knowingly plant cotton in excess of the permitted cotton acreage for the farm shall be ineligible for cotton loans or payments with respect to that farm.

(B) The Secretary may make land diversion payments to producers of upland cotton, whether or not a set-aside for upland cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(C) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for

hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(12) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection shall be made available to the producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of agricultural commodities.

(13) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(14) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

(15) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

(16) The Secretary shall carry out the program authorized by this subsection through the Commodity Credit Corporation.

(17) The provisions of section 590h(g) of title 16 (relating to assignment of payments), shall apply to payments under this subsection.

(As amended Sept. 29, 1977, Pub. L. 95-113, title VI, § 602, 91 Stat. 934; May 15, 1978, Pub. L. 95-279, title I, § 102, 92 Stat. 240; Sept. 30, 1978, Pub. L. 95-402, 92 Stat. 862.)

CODIFICATION

Pub. L. 95-402 purported to strike out the fourth sentence of par. (1) of subsec. (f). The enacting clause, however, stated that Pub. L. 95-402 was enacted to amend subsec. (f)(1) ". . . to ensure that the interest rates on price support loans for upland cotton are not less favorable to producers than the interest rates for such loans on other commodities". Accordingly, the third sentence of subsec. (f)(1) was deleted as the probable intent of Congress because it related to interest rates while the fourth sentence related to extension of the loan period and establishment of a special limited global import quota. See 1978 Amendment note below.

AMENDMENTS

1978—Subsec. (f)(1). Pub. L. 95-402 struck out sentence reading "The rate of interest on loans to cooperators under the provisions of this paragraph shall be established quarterly by the Commodity Credit Corporation on the basis of the lowest current interest rate on ordinary obligations of the United States." See Codification note above.

Pub. L. 95-279 substituted "during three years of the five-year period ending July 31" for "during the four-year period ending July 31" and added "excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period" in cl. (i), substituted "for the fifteen-week period beginning July 1" for "for the first two full weeks of October" in cl. (ii), and added the proviso relating to the minimum loan level and the power of the Secretary to raise the loan level as he may deem appropriate when the average Northern European price is less than the average United States spot market price.

1977—Subsec. (f). Pub. L. 95-113 added subsec. (f).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 102 of Pub. L. 95-279 provided in part that subsec. (f)(1) of this section is effective only with respect to the 1978 through 1981 crops of upland cotton.

Amendment by Pub. L. 95-279 effective Oct. 1, 1978, and applicability to elections by producers receiving loans and payments prior to such date, see section 103 of Pub. L. 95-279, set out as an Effective Date of 1978 Amendment note under section 1309 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 602 of Pub. L. 95-113 provided in part that subsec. (f) of this section is effective only with respect to the 1978 through the 1981 crops of upland cotton, except as otherwise provided therein.

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS

Subsec. (a) of this section inapplicable to 1978 through 1981 crops, see Pub. L. 95-113, title VI, § 604(c), Sept. 29, 1977, 91 Stat. 939, set out as a note under section 1446d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1344, 1348, 1349, 1350, 1377, 1427, 1428 of this title.

§ 1444a. Corn and feed grains and cotton programs

[*See main edition for text of* (a)]

(b) Operative status of certain provisions

Notwithstanding any other provision of law, if less than a majority of the producers voting in the referendum conducted pursuant to subsection (a) of this section favor a price support program as provided in this subsection (b), the following provisions of law shall become inoperative:

(1) [Section enacted section 1329a of this title.]

(2) [Section enacted section 1444b of this title.]

(3) [Section repealed section 1441(d)(4) of this title.]

[*See main edition for text of* (c) *and* (d)]

CODIFICATION

Subsec. (b) is set out in this supplement to correct a typographical error in the main edition.

§ 1444b. Feed grains; loans and purchases; payments

INAPPLICABILITY TO 1977 THROUGH 1981 CROPS OF FEED GRAINS

Pub. L. 95-113, title V, § 503, Sept. 29, 1977, 91 Stat. 933, provided that: "Section 105 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of feed grains."

INAPPLICABILITY TO 1977 CROP OF FEED GRAINS

Pub. L. 95-113, title V, § 504, Sept. 29, 1977, 91 Stat. 933, provided that: "Except as otherwise provided in

section 501 of this Act [enacting section 1444c (a), (b), and (c) of this title effective only for the 1977 through 1981 crops of feed grains], section 105(a) and (b)(1) of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended [subsecs. (a) and (b)(1) of this section as amended by Pub. L. 91-524, as amended], to be effective only for the 1974 through 1977 crops of feed grains, shall not be applicable to the 1977 crop of feed grains."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1444a, 1444c of this title.

§ 1444c. Loan rates and target prices for 1977 through 1981 feed grain crops

Notwithstanding any other provision of law—

(a) Loans and purchases; reduction

(1) The Secretary shall make available to producers loans and purchases at such level, not less than $2.00 per bushel, for each of the 1977 through 1981 crops of corn, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States: *Provided*, That if the Secretary determines that the average price of corn received by producers in any marketing year is not more than 105 per centum of the level of loans and purchases for corn for such marketing year, the Secretary may reduce the level of loans and purchases for corn for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below $1.75 per bushel.

(2) The Secretary shall make available to producers loans and purchases on each of the 1977 through 1981 crops of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 1421(b) of this title, and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.

(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments

(1)(A) In addition, the Secretary shall make available to producers payments for each of the 1977 through 1981 crops of corn, grain sorghums, and, if designated by the Secretary, oats and barley, in an amount computed as provided in this subsection. Payments for the 1977 crop shall be computed by multiplying (i) the payment rate, by (ii) the allotment for the farm for such crop, by (iii) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. Payments for each of the 1978 through 1981 crops shall be computed by multiplying (i) the payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. In no event shall payments be made under this paragraph for any of the 1978 through 1981 crops on a greater acreage than the acreage actually planted to such feed grains.

(B) The payment rate for corn shall be the amount by which the higher of—

(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(2) the loan level determined under subsection (a) of this section for such crop

is less than the established price per bushel. The established price for corn shall be $2.00 per bushel in the case of the 1977 crop, except that the established price shall be $1.70 per bushel with respect to any acreage not planted to corn within the feed grain allotment. The established price for corn shall be $2.10 per bushel in the case of the 1978 crop, and for the 1979 through 1981 crops the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

(C) Notwithstanding the foregoing provisions of this section, in the event the Secretary adjusts the level of loans and purchases for corn in accordance with the proviso in subsection (a)(1) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for corn by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made: *Provided*, That any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 1308 of this title.

(D) The payment rate for grain sorghums and, if designated by the Secretary, oats and barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

(E) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2) of this subsection.

(2)(A) Effective only with respect to the 1978 and 1979 crops of feed grains, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for feed grains to feed grains or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to feed grains for harvest (including any acreage which the producers were prevented from planting to feed grains or other nonconserving crop in lieu of feed grains because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year multiplied by 75 per centum of the farm program payment yield for feed grains established by the Secretary times a payment rate equal to 33⅓ per centum of the established price per bushel.

(B) Effective only with respect to the 1978 and 1979 crops of feed grains, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of feed grains which the producers are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop.

(C) In the case of the 1977 crop of feed grains, disaster payments for prevented planting for feed grains shall be computed as provided in 1444b of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973, and disaster payments for low yield shall be computed in accordance with the formula provided in subparagraph (B) of this paragraph: *Provided,* That producers may elect to receive disaster payments for low yield computed as provided in 1444b of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973: *Provided further,* That no disaster payments for low yield may be made under this paragraph prior to October 1, 1977.

(c) Fair and equitable sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

(d) Program acreages; proclamation; revision; adjustments; program allocation factor

(1) The Secretary shall proclaim a national program acreage for each of the 1978 through 1981 crops of feed grains. The proclamation shall be made not later than November 15 of each calendar year for the crop harvested in the next succeeding calendar year. The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for feed grains shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that the carryover stocks of feed grains are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

(2) The Secretary shall determine a program allocation factor for each crop of feed grains. The allocation factor for feed grains shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop: *Provided,* That in no event shall the allocation factor for any crop of feed grains be more than 100 per centum nor less than 80 per centum.

(3) The individual farm program acreage for each crop of feed grains shall be determined by multiplying the allocation factor by the acreage of feed grains planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided,* That the feed grain acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of feed grains planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than November 15 prior to the year in which the crop is harvested. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of feed grains planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for feed grains, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

(e) Payment yield

The farm program payment yield for each crop of feed grains shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for feed grains was established for the farm in the previous crop year, the Secretary is authorized to determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program

payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification

(1) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of feed grains will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Any such set-aside shall be announced by the Secretary not later than November 15 of each calendar year for the crop harvested in the next calendar year. If a set-aside of cropland is in effect under this subsection, then as a condition of eligibility for loans, purchases, and payments authorized by this section on corn, grain sorghums, and, if designated by the Secretary, barley and oats, respectively, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the feed grain acreage planted for harvest for the crop year for which the set-aside is in effect. The Secretary may limit the acreage planted to feed grains. Such limitation shall be applied on a uniform basis to all feed grain-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

(2) The Secretary may make land diversion payments to producers of feed grains, whether or not a set-aside for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and such other factors as the Secretary deems necessary.

(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(g) Defaults

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be

equitable in relation to the seriousness of the default.

(h) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(i) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 105A, as added Sept. 29, 1977, Pub. L. 95-113, title V, §§ 501, 502, 91 Stat. 928, 930.)

REFERENCES IN TEXT

The Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(C), is Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 221, as amended, section 1(18) of which amended section 1444b of this title by providing for feed grain loans and price support program for 1974 through 1977. For further details see 1973 amendments note set out under section 1444b of this title.

EFFECTIVE DATE; TERMINATION

Sections 501 and 502 of Pub. L. 95-113 provided in part that subsecs. (a), (b), and (c) of this section are effective only for the 1977 through 1981 crops of feed grains, and that subsecs. (d) through (i) of this section are effective only for the 1978 through 1981 crops of feed grains.

§ 1445a. Wheat price support levels

INAPPLICABILITY TO 1977 THROUGH 1981 CROPS OF WHEAT

Pub. L. 95-113, title IV, § 409, Sept. 29, 1977, 91 Stat. 928, provided that: "Section 107 of the Agricultural Act of 1949, as amended [this section], shall not be applicable to the 1977 through 1981 crops of wheat."

INAPPLICABILITY TO 1977 CROP OF WHEAT

Pub. L. 95-113, title IV, § 410, Sept. 29, 1977, 91 Stat. 928, provided that: "Except as otherwise provided in section 401 of this Act [enacting section 1445b (a), (b), and (c) of this title effective only for the 1977 through 1981 crops of wheat], section 107 of the Agricultural Act of 1949, as added by the Agricultural Act of 1970, as amended [this section as amended by Pub. L. 91-524, as amended], to be effective only for the 1974 through 1977 crops of wheat, shall not be applicable to the 1977 crop of wheat."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379b, 1379c, 1445b of this title.

§ 1445b. Loan rates and target prices for 1977 through 1981 wheat crops

Notwithstanding any other provision of law—

(a) Loans and purchases; reduction

The Secretary shall make available to producers loans and purchases at such level, not less than $2.25 per bushel for the 1977 crop of wheat and $2.35 per bushel for each of the 1978 through 1981 crops of wheat, nor, in the case of each of the 1977 through 1981 crops, in excess of 100 per centum of parity, as the Secretary determines will maintain its competitive relationship to other grains in domestic and export markets: *Provided*, That if the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 per centum of the level of loans and purchases for wheat for such marketing year, the Secretary may reduce the level of loans and purchases for wheat for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below $2.00 per bushel.

(b) Payments; computation; established prices; adjusted cost of production; emergency compensation; prevented planting disaster payments; farm disaster payments

(1)(A) In addition, the Secretary shall make available to producers payments for each of the 1977 through 1981 crops of wheat in an amount computed as provided in this subsection. Payments for the 1977 crop shall be computed by multiplying (i) the payment rate, by (ii) the allotment for the farm for such crop, by (iii) the projected yield established for the farm for such crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. Payments for each of the 1978 through 1981 crops shall be computed by multiplying (i) the payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. In no event shall payments be made under this paragraph for any of the 1978 through 1981 crops on a greater acreage than the acreage actually planted to wheat.

(B) The payment rate for wheat shall be the amount by which the higher of—

(i) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

(ii) the loan level determined under subsection (a) of this section for such crop

is less than the established price per bushel. The established price for wheat shall be $2.90 per bushel for the 1977 crop and $3.00 per bushel for the 1978 crop: *Provided*, That for the 1977 crop, the established price shall be $2.47 per bushel with respect to any acreage not planted to wheat within the wheat acreage allotment: *Provided further*, That for the 1978 crop, the established price shall be $3.05 per bushel if the 1978 crop of wheat is 1.8 billion bushels or less. For the 1979 crop, the established price shall be $3.00 per bushel adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the 1979 crop year from (ii) the average adjusted cost of production for the two crop years immediately preceding the 1978 crop year. For the 1980 and 1981 crops, the established price shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production for each of such years shall be determined by the Secretary on the

basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

(C) Notwithstanding the foregoing provisions of this section, in the event the Secretary adjusts the level of loans and purchases for wheat in accordance with the proviso in subsection (a) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made: *Provided*, That any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 1308 of this title.

(D) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2) of this subsection.

(2)(A) Effective only with respect to the 1978 and 1979 crops of wheat, if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers on the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage which the producers were prevented from planting to wheat or other nonconserving crop in lieu of wheat because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33⅓ per centum of the established price per bushel for wheat.

(B) Effective only with respect to the 1978 and 1979 crops of wheat, if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat which the producers are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop by the acreage planted for harvest for such crop, the Secretary shall make a farm disaster payment to the producers at a rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop.

(C) In the case of the 1977 crop of wheat, disaster payments for prevented planting shall be computed as provided in section 1445a of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973, and disaster payments for low yield shall be computed in accordance with the formula provided in subparagraph (B) of this paragraph: *Provided*, That producers may elect to receive disaster payments for low yield computed as provided in section 1445a of this title, as amended for the 1974 through 1977 crops by the Agriculture and Consumer Protection Act of 1973: *Provided further*, That no disaster payments for low yield may be made under this paragraph prior to October 1, 1977.

(c) Fair and equitable sharing of payments

The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

(d) Program acreages; proclamation; revision; adjustments; program allocation factor

(1) The Secretary shall proclaim a national program acreage for each of the 1978 through 1981 crops of wheat. The proclamation shall be made not later than August 15 of each calendar year for the crop harvested in the next succeeding calendar year, except that in the case of the 1978 crop the proclamation shall be made as soon as practicable after September 29, 1977. The Secretary may revise the national program acreage first proclaimed for any crop year for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for wheat shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of wheat are excessive or an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

(2) The Secretary shall determine a program allocation factor for each crop of wheat. The allocation factor for wheat shall be determined by dividing the national program acreage for the crop by the number of acres which the Secretary estimates will be harvested for such crop: *Provided*, That in no event shall the allocation factor for any crop of wheat be more than 100 per centum nor less than 80 per centum.

(3) The individual farm program acreage for each crop of wheat shall be determined by multiplying the allocation factor by the acreage of wheat planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the wheat acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of wheat planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the procla-

mation of the national program acreage made not later than August 15 prior to the year in which the crop is harvested, or in the case of the 1978 crop, the proclamation first made after September 29, 1977. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of wheat planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for wheat, the Secretary is authorized to make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

(e) Payment yield

The farm program payment yield for each crop of wheat shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for wheat was established for the farm in the previous crop year, the Secretary is authorized to determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop year involved. In the event national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

(f) Cropland set-aside; announcement; acreage limitation; land diversion payments; contracts; bids; wildlife habitats; adjustments; agreements; termination or modification

(1) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of wheat will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary shall announce any such set-aside not later than August 15 prior to the year in which the crop is harvested, except that in the case of the 1978 crop, the announcement shall be made as soon as practicable after September 29, 1977. If a set-aside of cropland is in effect under this subsection, then as a condition of eligibility for loans, purchases, and payments authorized by this section, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of wheat planted for harvest for the crop year for which the set-aside is in effect. The Secretary may limit the acreage planted to wheat. Such limitation shall be applied on a uniform basis to all wheat-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, which will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply is not likely to increase the cost of the price support program, and will not adversely affect farm income.

(2) The Secretary may make land diversion payments to producers of wheat, whether or not a set-aside for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and such other factors as the Secretary deems necessary.

(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so no later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres which the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into pursuant to this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

(g) Defaults

In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

(h) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(i) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 107A, as added Sept. 29, 1977, Pub. L. 95-113, title IV, §§ 401, 402, 91 Stat. 921, 924.)

REFERENCES IN TEXT

The Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(C), is Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 221, as amended, section 1(8) of which amended section 1445a of this title by providing for price support program for 1974 through 1977. For further details see 1973 Amendments note set out under section 1445a of this title.

EFFECTIVE DATE; TERMINATION

Sections 401 and 402 of Pub. L. 95-113 provided in part that subsecs. (a), (b), and (c) of this section are effective only for the 1977 through 1981 crops of wheat, and that subsecs. (d) through (i) of this section are effective only for the 1978 through 1981 crops of wheat.

§ 1445c. Price support program for 1978 through 1981 crops of peanuts

Notwithstanding any other provision of law—

(a) Support levels for quota peanuts; adjustments

The Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts for each of the 1978 through 1981 crops at such levels as the Secretary finds appropriate, taking into consideration the eight factors specified in section 1421(b) of this title, and any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning January 1 and ending December 31 of the calendar year immediately preceding the marketing year for which the level of support is being determined, but not less than $420 per ton. The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage: *Provided*, That the Secretary may make adjustments for location of peanuts and such other adjustments as are authorized by section 1423 of this title.

(b) Support levels for additional peanuts

The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1978 through 1981 crops. In determining support levels, the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets. The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for which the level of support is being determined.

(c) Warehouse storage loans; pools; records; net gains

(1) In carrying out subsections (a) and (b) of this section, the Secretary may make warehouse storage loans available in each of the three producing areas (described in 7 CFR § 1446.4 (1977)) to a designated area marketing association of peanut producers which is selected and approved by the Secretary and which is operated primarily for the purpose of conducting such loan activities. Such associations may be used in administrative and supervisory activities relating to price support and marketing activities under this section and section 1359 of this title. Such loans shall include, in addition to the price support value of the peanuts, such costs as such association reasonably may incur in carrying out such responsibilities in its operations and activities under this section and section 1359 of this title.

(2) The Secretary may require that each such association establish pools and maintain complete and accurate records by type for quota peanuts handled under loans and for additional peanuts produced without a contract between handler and producer described in section 1359(i) of this title. Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed in proportion to the value of the peanuts placed in the pool by each grower. Net gains for peanuts in each pool shall consist of (A) for quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in such pool plus an amount from the pool for additional peanuts to the extent of the net gains from the sale for domestic food and related uses of additional peanuts in the pool for additional peanuts equal to any loss on disposition of all peanuts in the pool for quota peanuts and (B) for additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (A) of this

paragraph. Notwithstanding any other provision of this subsection, any distribution of net gains on additional peanuts of any type to any producer shall be reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts of a different type placed under loan by such grower.

(Oct. 31, 1949, ch. 792, title I, § 108, as added Sept. 29, 1977, Pub. L. 95–113, title VIII, § 807, 91 Stat. 947.)

EFFECTIVE DATE; TERMINATION

Section 807 of Pub. L. 95–113 provided in part that this section is effective for the 1978 through 1981 crops of peanuts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1359 of this title.

§ 1445d. Special wheat acreage grazing and hay program for 1978 through 1981 crop years

Notwithstanding any other provision of law—

(a) Authorization for program; acreage designation; payment

The Secretary is authorized to administer a special wheat acreage grazing and hay program (hereinafter in this section referred to as the "special program") in each of the crop years 1978 through 1981. Under the special program, a producer shall be permitted to designate, under such regulations as established by the Secretary, a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 per centum thereof, or 50 acres, whichever is greater, which shall be planted to wheat (or some other commodity other than corn or grain sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. A producer who elects to participate in the special program shall receive a payment as provided in subsection (c) of this section.

(b) Specific farm acreage

Any producer who elects to participate in the special program under this section shall designate the specific acreage on the farm which is to be used for the purposes set forth in subsection (a) of this section. No crop other than hay may be harvested from acreage included in the special program.

(c) Determination of payment

The Secretary shall pay the producer participating in the special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. The producer shall not be eligible for any other payment or price support on any portion of the acreage for the farm which the producer elects to include in the special program.

(d) Other acreage set-aside programs

Acreage included in the special program shall be in addition to any acreage included in any acreage set-aside program otherwise provided for by law.

(e) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) Commodity Credit Corporation

The Secretary shall carry out the special program through the Commodity Credit Corporation.

(Oct. 31, 1949, ch. 792, title I, § 109, as added Sept. 29, 1977, Pub. L. 95–113, title X, § 1004, 91 Stat. 950.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445e. Producer storage program for wheat and feed grains

(a) Formulation and administration; safeguards

The Secretary shall formulate and administer a program under which producers of wheat and, in the discretion of the Secretary, producers of feed grains will be able to store wheat and feed grains when such commodities are in abundant supply and extend the time period for their orderly marketing. The Secretary shall establish safeguards to assure that wheat and feed grains held under the program shall not be utilized in any manner to unduly depress, manipulate, or curtail the free market. The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

(b) Terms and conditions; waiver

In carrying out the producer storage program, the Secretary may provide original or extended price support loans for wheat and feed grains at the same level of support as provided by this Act under terms and conditions designed to encourage producers to store wheat and feed grains for extended periods of time in order to promote orderly marketing when wheat or feed grains are in abundant supply. Among such other terms and conditions as the Secretary may prescribe by regulation, the program shall provide for (1) repayment of such loans in not less than three years nor more than five years; (2) payment to producers of such amounts as the Secretary determines appropriate to cover the cost of storing wheat and feed grains held under the program; (3) a rate of interest determined by the Secretary based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust such interest; (4) recovery of amounts paid for storage, and for the payment of additional interest or other charges in the event such loans are repaid by producers before the market price for wheat or feed grains has reached the price levels specified in clause (5) of this subsection; (5) conditions designed to induce producers to redeem and market the wheat or feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price of wheat has attained a specified level

which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains, as determined by the Secretary; and (6) conditions prescribed by the Secretary under which the Secretary may require producers to repay such loans, plus accrued interest thereon, refund amounts paid for storage, and pay such additional interest and other charges as may be required by regulation, whenever the Secretary determines that the market price for the commodity is not less than 175 per centum of the then current level of price support for wheat or such appropriate level for feed grains as determined by the Secretary under this Act.

(c) Announcement

The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable. In such announcement, the Secretary shall specify the quantity of wheat or feed grains to be stored under the program which the Secretary determines appropriate to promote the orderly marketing of such commodities. The quantity of wheat shall not be less than three hundred million bushels nor more than seven hundred million bushels: *Provided*, That such maximum amount may be adjusted by the Secretary as necessary to meet such commitments as may be assumed by the United States pursuant to an international agreement containing provisions relating to grain reserves.

(d) Restriction

Notwithstanding any other provision of law, whenever the extended loan program authorized by this section is in effect, the Commodity Credit Corporation may not sell any of its stocks of wheat or feed grains at less than 150 per centum of the then current level of price support for such commodity: *Provided*, That such restriction shall not apply to—

(1) sales of such commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; and

(2) sales or other disposals of such commodities under (A) the fifth and sixth sentences of section 1427 of this title, (B) the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), and (C) section 1427a of this title.

(e) Grain reconcentration

The Secretary may, with the concurrence of the owner of grain stored under the program authorized by this section, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary deems to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations which assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by his commitment.

(f) Purchases; daily list

Whenever grain is stored under the provisions of this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such commodities which the Commodity Credit Corporation owns or controls. Such purchases to offset sales shall be made within two market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

(g) Commodity Credit Corporation

The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. In addition, to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

(Oct. 31, 1949, ch. 792, title I, § 110, as added Sept. 29, 1977, Pub. L. 95-113, title XI, § 1101, 91 Stat. 951.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The Act of September 21, 1959, referred to in subsec. (d), is Pub. L. 86-299, Sept. 21, 1959, 73 Stat. 574, as amended, which is set out as a note under section 1427 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445f. International Emergency Food Reserve

The President is encouraged to enter into negotiations with other nations to develop an international system of food reserves to provide for humanitarian food relief needs and to establish and maintain a food reserve, as a contribution of the United States toward the development of such a system, to be made available in the event of food emergencies in foreign countries. The reserves shall be known as the International Emergency Food Reserve.

(Oct. 31, 1949, ch. 792, title I, § 111, as added Sept. 29, 1977, Pub. L. 95-113, title XI, § 1102, 91 Stat. 953.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1445g. Production of commodities for conversion into industrial hydrocarbons; terms and conditions; incentive payments; regulations; appropriations; effective date

Notwithstanding any other provision of this Act—

(a) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage set aside or diverted from the production of a commodity

for any crop year under this subchapter to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

(b)(1) During any year in which there is no set-aside or diversion of acreage under this subchapter, the Secretary may formulate and administer a program for the production, subject to such terms and conditions as the Secretary may prescribe, of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

(2) The payments under this subsection shall be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

(3) The Secretary may issue such regulations as the Secretary deems necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(5) The provisions of this subsection shall become effective October 1, 1978.

(Oct. 31, 1949, ch. 792, title I, § 112, as added May 15, 1978, Pub. L. 95-279, title II, § 201, 92 Stat. 241.)

REFERENCES IN TEXT

This Act, referred to in provision preceding subsec. (a), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

§ 1446. Price support levels for designated nonbasic agricultural commodities

The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for tung nuts, soybeans, honey, milk, sugar beets, and sugar cane as follows:

[*See main edition for text of* (a) *and* (b)]

(c) The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period beginning on October 1, 1977, and ending March 31, 1979, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk.

(d) Effective for the period beginning on October 1, 1977, and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. The Secretary is authorized to adjust the support price of milk at the beginning of each remaining quarter in the marketing year to reflect any substantial change in the parity index during such quarterly period. Any adjustment under this subsection shall be announced by the Secretary not more than thirty days prior to the beginning of the period to which it is applicable.

(e) The price of the 1978 through 1981 crops of soybeans shall be supported through loans and purchases at such levels as the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors: *Provided*, That notwithstanding the provisions of section 1309 of this title, the Secretary shall not require a set-aside of soybean acreage as a condition of eligibility for price support for any commodity supported under the provisions of this Act.

(f)(1) The price of the 1977 and 1978 crops of sugar beets and sugar cane, respectively, shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 65 per centum nor less than 52.5 per centum of the parity price therefor: *Provided*, That the support level may in no event be less than 13.5 cents per pound raw sugar equivalent. In carrying out the price support program authorized by this subsection, the Secretary shall establish minimum wage rates for agricultural employees engaged in the production of sugar.

(2) Notwithstanding any other provision of law, the Secretary may suspend the operation of the price support program authorized by this subsection whenever the Secretary determines that an international sugar agreement is in effect which assures the maintenance in the United States of a price for sugar not less than 13.5 cents per pound raw sugar equivalent.

(3) Nothing in this subsection shall affect the authority of the Secretary to establish under any other provision of law a price support program for that portion of the 1977 crop of sugar

cane and sugar beets marketed prior to the implementation of the program authorized by this subsection.

(As amended Sept. 29, 1977, Pub. L. 95-113, title II, § 203, title IX, §§ 901, 902, 91 Stat. 920, 949.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is the Agricultural Act of 1949, act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

AMENDMENTS

1977—Pub. L. 95-113, §§ 901(1), 902(1), inserted references to soybeans, sugar beets, and sugar cane in the provisions preceding subsec. (a).

Subsec. (c). Pub. L. 95-113, § 203(1), substituted the period Oct. 1, 1977, through Mar. 31, 1979, for the period Aug. 10, 1973, through Mar. 31, 1975, as the period during which the price of milk shall be supported at not less than 80 per centum of parity.

Subsec. (d). Pub. L. 95-113, § 203(2), added subsec. (d).

Subsec. (e). Pub. L. 95-113, § 901(2), added subsec. (e).

Subsec. (f). Pub. L. 95-113, § 902(2), added subsec. (f).

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 901 of Pub. L. 95-113 provided in part that the amendment by section 901 of Pub. L. 95-113 is effective only with respect to the 1978 through 1981 crops of soybeans.

Section 902 of Pub. L. 95-113 provided in part that the amendment by section 902 of Pub. L. 95-113 is effective only with respect to the 1977 and 1978 crops of sugar beets and sugar cane.

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, except as otherwise specifically provided, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1446a. Dairy products; availability through Commodity Credit Corporation

As a means of increasing the utilization of dairy products (including for purposes of this section, milk) upon the certification by the Administrator of Veterans' Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

(a) Administrator of Veterans' Affairs; needs; report to Congress

The Commodity Credit Corporation until December 31, 1981, shall make available to the Administrator of Veterans' Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Administrator certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration in hospitals under his jurisdiction. The Administrator shall report every six months to the Committees on Agriculture of the Senate and House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

(b) Secretary of the Army; needs; report to Congress

The Commodity Credit Corporation until December 31, 1981, shall make available to the Secretary of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or his duly authorized representative certifies can be utilized in order to provide additional butter and cheese and other dairy products as a part of the ration (1) of the Army, Navy, Air Force, or Coast Guard, (2) in hospitals under the jurisdiction of the Department of Defense, and (3) of cadets and midshipmen at, and other personnel assigned to, the United States Merchant Marine Academy. The Secretary of the Army shall report every six months to the Committees on Agriculture of the Senate and the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

[*See main edition for text of* (c) *and* (d)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title II, § 204, 91 Stat. 920.)

AMENDMENTS

1977—Subsecs. (a), (b). Pub. L. 95-113 extended the availability of dairy products from Dec. 31, 1977, to Dec. 31, 1981.

CHANGE OF NAME

The Committee on Agriculture of the Senate, referred to in par. (b), was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§ 1446a-1. Use of Commodity Credit Corporation funds for purchases of dairy products requirements for school and other programs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1777 of this title; title 42 sections 1758, 1761, 3030a, 3045f.

§ 1446d. Price support levels for cottonseed and soybeans

INAPPLICABILITY TO 1978 THROUGH 1981 CROPS

Pub. L. 95-113, title VI, § 604(c), Sept. 29, 1977, 91 Stat. 939, provided that: "Sections 103(a) and 203 of the Agricultural Act of 1949, as amended [section 1444(a) of this title and this section] shall not be applicable to the 1978 through 1981 crops."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1447 of this title.

§ 1447. Price support levels for other nonbasic agricultural commodities

The Secretary is authorized to make available through loans, purchases, or other operations price support to producers for any nonbasic agricultural commodity not designated in sections 1446, 1446a, and 1446d of this title at a level not in excess of 90 per centum of the parity price for the commodity. The Secretary is authorized to make price support available under sections 1447 to 1449 of this title for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for any other nonbasic commodity not designated in sections 1446, 1446a, and 1446d of this title, except that such authority shall terminate with respect to any commodity, other than those listed in this sentence, at the end of any crop year in which the net outlays for the commodity exceed $50 million.

(As amended Sept. 29, 1977, Pub. L. 95-113, title X, § 1003(a), 91 Stat. 950.)

AMENDMENTS

1977—Pub. L. 95-113 added provisions authorizing the Secretary to make price support available for the 1978 through 1981 crops of flaxseed, dry edible beans, gum naval stores, and, in the case of the 1979 through 1981 crops, sugar beets and sugar cane, and for other nonbasic undesignated commodities.

EFFECTIVE AND TERMINATION DATES OF 1977 AMENDMENT

Section 1003(a) of Pub. L. 95-113 provided in part that the amendment of Pub. L. 95-113 is effective only with respect to the 1978 through 1981 crops.

OTHER PRICE SUPPORT PROGRAMS IN EFFECT ON SEPTEMBER 29, 1977

Section 1003(b) of Pub. L. 95-113 provided that: "The amendment made by this section [amending this section] to the Agricultural Act of 1949 shall not be operative in any manner with respect to any price support program in effect on the date of enactment of this Act [Sept. 29, 1977]."

§ 1448. Price support levels for storable nonbasic agricultural commodities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1447, 1449 of this title.

§ 1449. Determination of price support level

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1446, 1447 of this title.

CHAPTER 36—CROP INSURANCE

§ 1504. Capital stock of Corporation; subscription by United States; authorization of appropriations

(a) The Corporation shall have a capital stock of $200,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.

[See main edition for text of (b) and (c)]

(As amended June 16, 1977, Pub. L. 95-47, 91 Stat. 228; Nov. 15, 1977, Pub. L. 95-181, § 1, 91 Stat. 1373.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-181 substituted "$200,000,000" for "$150,000,000".

Pub. L. 95-47 substituted "$150,000,000" for "$100,000,000".

§ 1508. Agricultural commodity crop insurance

STUDY OF ALTERNATIVE ALL-RISK, ALL-CROP INSURANCE PROGRAMS

Pub. L. 95-181, § 2, Nov. 15, 1977, 91 Stat. 1373, provided that: "The Secretary of Agriculture shall undertake an immediate study of alternative programs which could be established for an all-risk, all-crop insurance to help provide protection to those suffering crop losses in floods, droughts, and other natural disasters, including alternative methods of administration, Federal assistance, reinsurance, rate setting and private insurance industry involvement, as well as variations on the existing crop insurance program, and such other matters as he determines are relevant, and shall report his findings and recommendations to the President for transmission to the Congress by March 1, 1978. The Secretary shall consult with the Secretary of Housing and Urban Development on behalf of the Federal Insurance Administration; the Secretary of Treasury and representatives of the private insurance industry in the course of the study and shall identify the views of each in forwarding his findings and recommendations to the President. Such sums, not exceeding $200,000, as are appropriated for fiscal year 1978 under section 504 of the Federal Crop Insurance Act, as amended [section 1504 of this title], may be utilized to conduct such a study."

CHAPTER 38—DISTRIBUTION AND MARKETING OF AGRICULTURAL PRODUCTS

§ 1622. Duties of Secretary relating to agricultural products

The Secretary of Agriculture is directed and authorized:

[See main edition for text of (a) and (b)]

(c) Improvement of standards of quality, condition, etc.; standard of quality for ice cream

To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices. Within thirty days after September 29, 1977, the Secretary shall by regulation adopt a standard of quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat. Only those products which meet the standard issued by the Secretary may bear a symbol thereon indicating that they meet the Department of Agriculture standard for "ice cream".

[*See main edition for text of (d) to (n)*]

(As amended Sept. 29, 1977, Pub. L. 95-113, title II, § 206, 91 Stat. 920.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-113 added provisions relating to the setting of a standard of quality for ice cream.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 474.

§ 1623a. Minimum sum for contracting

REFERENCES IN TEXT

Sections 1891 and 1892 of title 42, referred to in text, were repealed by Pub. L. 95-224, § 10(a), Feb. 3, 1978, 92 Stat. 6, effective one year after Feb. 3, 1978.

REPEALED

Pub. L. 95-448, title VI, § 603, Oct. 11, 1978, 92 Stat. 1092.

Pub. L. 95-97, title VI, § 603, Aug. 12, 1977, 91 Stat. 828.

CHAPTER 41—AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE

SUBCHAPTER II—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

Sec.
1707b. Deferred payment sales [New].
(a) Financing by Commodity Credit Corporation.
(b) Application for financing; export sales plan.
(c) Repayment in dollars.
(d) Performance guarantee.
(e) Review.
(f) Authority of Secretary or Commodity Credit Corporation.
1707c. Credit sales to the People's Republic of China [New].
1707d. Definition [New].
1712. Human rights [New].
(a) Agreements prohibited with countries violating internationally recognized human rights; exception for agreements directly benefiting needy people.
(b) Presidential demonstration that agreement will directly benefit needy people of country.
(c) Investigations by international organizations.
(d) Presidential report.
1713. Priority for financing sales of food and fiber commodities [New].
1714. High protein, blended, and fortified foods [New].
(a) Congressional declaration of policy.
(b) Waiver of repayment.
(c) Impact on other commercial and concessional sales of whole grains.
1715. Sales Procedure [New].

SUBCHAPTER III-A—FOOD FOR DEVELOPMENT PROGRAM [NEW]

Sec.
1727. Congressional declaration of purpose.
1727a. Participation of developing countries.
(a) Presidential designation of countries as eligible.
(b) Criteria for eligibility.
(c) Minimum aggregate value of projects; waiver of minimums.
1727b. Multiyear utilization proposal.
(a) Formulation; content.
(b) Integration with other forms of development assistance.
(c) Non-replacement of other programs.
1727c. Credit.
(a) Commodity Credit Corporation.
(b) Payment by recipient government.
(c) Waiver.
(d) Payment of freight charges of relatively least developed countries.
1727d. Funds generated from sale of agricultural commodities; disbursements as payment with respect to credit or repayment obligation.
1727e. Report to President.
1727f. Annual Presidential review.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1765b of this title; title 13 section 301; title 16 section 1537; title 22 sections 1922, 2151a, 2167, 2353, 2354, 2362, 2370, 2394, 2455, 2775.

§ 1691. Declaration of policy

USE OF NONPRICE-SUPPORTED COMMODITIES

Pub. L. 95-113, title XII, § 1209, Sept. 29, 1977, 91 Stat. 957, provided that: "It is the sense of Congress that there be no discrimination between 'price-supported' and 'nonprice-supported' commodities in the programming of commodities under the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [which enacted this chapter and amended sections 1427 and 1431 of this title]."

SPECIAL TASK FORCE

Pub. L. 95-113, title XII, § 1210, Sept. 29, 1977, 91 Stat. 957, provided that:

"(a) It is the sense of Congress that attention be given to handling, storage, transportation, and administrative procedures in order to make improvements in the operation of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) [which enacted this chapter and amended sections 1427 and 1431 of this title]. Toward this objective, the Secretary of Agriculture shall appoint a special task force to review and report upon the administration of the Act.

"(b) Such review shall include, but not be limited to, organizational arrangements for the administration of Public Law 480, or parts thereof, title I [subchapter II of this chapter] allocation criteria and procedures, quality, control, including handling and storage through the first stage of distribution in the recipient country, and regulation of businesses and organizations to which services are contracted under Public Law 480.

"(c) Not later than eighteen months following enactment of this Act [Sept. 29, 1977], the Secretary of Agriculture shall transmit to Congress the report of such task force, along with administrative actions the Secretary has taken or intends to take as a result of such report, and recommendations, if any, for legislative changes."

SUBCHAPTER I—BARTER

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1703, 1727, 1727a, 1727b, 1727c, 1727d, 1727e, 1727f, 1736b, 1736e of this title; title 10 section 2681.

§ 1692. Bartering authority of Secretary; exchange for strategic materials and materials for other purposes; cooperation of agencies; assistance to cooperatives; limitations

CODIFICATION

Section 303 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, set out in the credit of this section, was renumbered 310 by Pub. L. 95-88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

SUBCHAPTER II—SALE OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES AND LONG-TERM-DOLLAR-CREDIT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1724, 1727a, 1727b, 1727c, 1732, 1736a, 1736b, 1736c, 1736e, 1743, 1766b of this title; title 10 section 2681; title 22 sections 2103, 2291.

§ 1702. Financing sale and exportation of agricultural commodities from private or public stocks

For the purpose of carrying out agreements concluded under this chapter and sections 1427 and 1431 of this title the Commodity Credit Corporation is authorized to finance the sale and exportation of agricultural commodities whether from private stocks or from stocks of the Commodity Credit Corporation and, when requested by the purchaser of such commodities, may serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of such commodities.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 201(a), 91 Stat. 545; Sept. 29, 1977, Pub. L. 95-113, title XII, § 1201, 91 Stat. 955.)

AMENDMENTS

1977—Pub. L. 95-113 added provisions authorizing the Corporation, when requested by the purchaser of commodities, to serve as the purchasing or shipping agent, or both, in arranging the purchasing or shipping of the commodities.

Pub. L. 95-88 struck out the proviso prohibiting the financing by the Commodity Credit Corporation of the sale and export of agricultural commodities where the exporter had engaged in any sales, trade, or commerce with North Vietnam, or with any resident thereof, or which owned or controlled any company so engaged either directly or indirectly, and struck out an additional proviso requiring that financing applications be accompanied by statements in which were listed the branches, etc., in which the applicant had a controlling interest and the companies which had a controlling interest in the applicant company.

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Section 215 of Pub. L. 95-88 provided that: "The provisions of this title [enacting sections 1712 to 1714 and 1727 to 1727f of this title, amending sections 1427, 1431, 1692, 1702, 1703, 1706, 1711, 1721, 1722, 1723, 1726, 1731, and 1736b of this title, and enacting provisions set out as notes under sections 1708 and 1722 of this title] shall become effective October 1, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1703. Agreements with friendly countries and organizations; terms and conditions

In exercising the authorities conferred upon him by this subchapter, the President shall

[See main edition for text of (a)]

(b) Transition from sales for foreign currencies to sales for dollars

take steps to assure a progressive transition from sales for foreign currencies to sales for dollars (or to the extent that transition to sales for dollars under the terms applicable to such sales is not possible, transition to sales for foreign currencies on credit terms no less favorable to the United States than those for development loans made under section 2151t of title 22, and on terms which permit conversion to dollars at the exchange rate applicable to the sales agreement) at a rate whereby the transition can be completed by December 31, 1971: *Provided*, That, except where he determines that it would be inconsistent with the objectives of this chapter and sections 1427 and 1431 of this title, the President shall determine the amount of foreign currencies needed for the uses specified in subsections (a), (b), (c), (e), and (h) of section 1704 and in subchapters I and III-A of this chapter and sections 1427 and 1431 of this title, and the agreements for such credit sales shall provide for payment of such amounts in dollars or in foreign currencies upon delivery of the agricultural commodities. Such payment may be considered as an advance payment of the earliest installments;

[See main edition for text of (c)]

(d) Sales agreements with countries friendly to United States; reports to Congress; aggressor countries

make sales agreements only with those countries which he determines to be friendly to the United States: *Provided*, That the President shall periodically review the status of those countries which are eligible under this subsection and report the results of such review to the Congress. As used in this chapter and sections 1427 and 1431 of this title, "friendly country" shall not include (1) any country or area dominated or controlled by a foreign government or organization controlling a world Communist movement, or (2) for the purpose only of sales of agricultural commodities for foreign currencies under this subchapter, any country or area dominated by a Communist government. Notwithstanding any other act, the President may enter into agreements for the sale of agricultural commodities for dollars on credit terms under this subchapter with countries which fall within the definition of "friendly country" for the purpose of such sales and no sales under this chapter and sections 1427 and 1431 of this title shall be made with any country if the President finds such country is (a) an aggressor, in a military sense, against any country having diplomatic relations with the United States, or (b) using funds, of any sort, from the United States for purposes inimical to the foreign policies of the United States;

[*See main edition for text of (e) to (q)*]

(As amended Aug. 3, 1977, Pub. L. 95–88, title II, §§ 201(b), 211(b)(1), 91 Stat. 545, 551; Oct. 6, 1978, Pub. L. 95–424, title I, § 102(b)(2)(B), 92 Stat. 941.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–424 substituted "section 2151t of title 22" for "section 2161 of title 22".

1977—Subsec. (b). Pub. L. 95–88, § 211(b)(1), substituted "and in subchapters I and III–A of this chapter and sections 1427 and 1431, of this title" for "and in section 1706(b)(2) of this title" following "uses specified in subsections (a), (b), (c), (e), and (h) of section 1704".

Subsec. (d). Pub. L. 95–88, § 201(b), struck out provisions that "friendly country" not include, for the purpose only of sales of agricultural commodities under this subchapter, any nation which sold or furnished or permitted ships or aircraft under its registry to transport to or from Cuba or North Vietnam (excluding United States installations in Cuba) any equipment, materials, or commodities so long as they were governed by a Communist regime: *Provided*, That this exclusion from the definition of "friendly country" could be waived by the President if he determined that such waiver was in the national interest and reported such determination to the Congress within 10 days of the date of such determination, and struck out provisions that "friendly country" also not include, for the purposes only of sales under this subchapter, the United Arab Republic, unless the President determined that such sale was in the national interest of the United States, that no sales to the United Arab Republic be based upon the requirements of that nation for more than one fiscal year, and that the President keep the President of the Senate and the Speaker of the House of Representatives fully and currently informed with respect to sales made to the United Arab Republic under this subchapter.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707, 1708, 1727d of this title.

§ 1704. Purposes for which foreign currencies may be used

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 1219, as amended generally by Pub. L. 95–561 Nov. 1, 1978, 92 Stat. 2152, which is classified generally to chapter 47 (§ 2701 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 20 and Tables.

§ 1706. Payment for commodities

(a) Dollar credit sales; period

Payment by any friendly country for commodities purchased for dollars on credit shall be upon terms as favorable to the United States as the economy of such country will permit. Payment for such commodities shall be in dollars with interest at such rates as the Secretary may determine but not less than the minimum rate required by section 2151t(b) of title 22 for loans made under that section. Payment may be made in reasonable annual amounts over periods of not to exceed twenty years from the date of the last delivery of commodities in each calendar year under the agreement, except that the date for beginning such annual payment may be deferred for a period not later than two years after such date of last delivery, and interest shall be computed from the date of such last delivery. Delivery of such commodities shall be made in annual installments for not more than ten years following the date of the sales agreement and subject to the availability of the commodities at the time delivery is to be made.

(b) Sales agreement provisions for use of proceeds for prescribed purposes and programs; payments; priority to sales agreements with countries conforming to certain requirements in their agricultural development plans

[*See main edition for text of (1)*]

(2) Greatest emphasis shall be placed on the use of such proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning, and to carry out the program described in section 1736(a)(1) of this title, in those countries which are undertaking self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 1709 of this title, and which programs are directed at and likely to achieve the policy objectives of sections 2151a and 2151b of title 22 and are consistent with the policy objectives of this chapter and sections 1427 and 1431 of this title, pursuant to agreements between the United States and foreign governments under which uses of such proceeds shall be made for such purposes.

[*See main edition for text of (3)*]

(As amended Aug. 3, 1977, Pub. L. 95–88, Title II, § 211(b)(2), 91 Stat. 551; Oct. 6, 1978, Pub. L. 95–424, title I, § 102(b)(2)(C), 92 Stat. 941.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–424 substituted "section 2151t(b) of title 22" for "section 2161 of title 22".

1977—Subsec. (b)(2). Pub. L. 95–88 struck out provisions that uses of proceeds to carry out programs of agricultural development, rural development, nutrition, and population planning be deemed payments for the purposes of section 1703(b) of this title and that such payments be described in the reports required by section 1736b of this title and section 2417 of title 22.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1707 of this title.

§ 1707a. Export Credit Sales Program

(a) Financing of commercial export sales for three years or less

Commercial export sales of agricultural commodities out of private stocks on credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its export credit sales program.

(b) Financing of commercial export sales for more than three years and less than ten years; determination by Secretary; authorized uses; terms of credit; resale; additional terms and conditions; review; transmission to Congress; cargo preference laws; authority of Secretary or Commodity Credit Corporation

(1) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation.

(2) No export sale may be financed under this subsection unless the Secretary of Agriculture determines that the sale will—

(A) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities without displacing normal commercial sales; or

(B) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, United States agricultural commodities.

(3) Consistent with the provisions of paragraph (2) of this subsection, intermediate credit financing under this subsection may be made available for the following uses:

(A) to establish reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

(B) the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

(C) where determined feasible, for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities to finance all or part of such facilities); and

(D) to meet credit competition for agricultural export sales.

(4) Intermediate credit financing under this subsection may not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling.

(5) The terms of credit for export sales financed under this subsection shall include the following terms:

(A) Repayment shall be in dollars with interest at a rate equal, as nearly as practicable, to the rate charged by the Commodity Credit Corporation for financing under the Corporation's short-term export credit sales program.

(B) The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require an initial payment from the purchaser at the time of sale or shipment of the agricultural commodity.

(6) The Secretary shall, wherever feasible, obtain commitments from purchasers that will prevent resale or transshipment to other nations of agricultural commodities purchased with financing provided under this subsection.

(7)(A) Agreements to finance export sales of agricultural commodities entered into under this subsection, except agreements to finance export sales for the establishment of reserve stocks, shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(B) Agreements to finance export sales of agricultural commodities under this subsection for the establishment of reserve stocks shall be subject to such other terms and conditions as the Secretary may deem necessary and appropriate. No such agreement may become effective or be carried out until the expiration of thirty days following the date on which a detailed summary of such proposed agreement, together with a determination by the President that such financing is not adverse to the interests of United States producers of agricultural commodities, is transmitted by the Secretary to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

(8) The provisions of the cargo preference laws shall not apply to export sales financed under this subsection.

(9) The authority provided under this subsection shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(c) Definition

The term "agricultural commodity" as used in this section includes any agricultural commodity or product thereof.

(As amended Pub. L. 95-501, title I, § 101, Oct. 21, 1978, 92 Stat. 1685.)

REFERENCES IN TEXT

The cargo preference laws, referred to in subsec. (b)(8), are act Mar. 26, 1934, ch. 90, 48 Stat. 500, and act Aug. 26, 1954, ch. 936, 68 Stat. 832, which are classified to sections 1241 and 1241-1, respectively, of Title 46, Shipping.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-501 designated existing provisions as subsec. (a), and as so redesignated, added requirement that sales financed under this section be export sales, and deleted provision authorizing appropriations to reimburse the Commodity Credit Corporation annually for costs incurred under the Export Credit Sales Program.

Subsec. (b). Pub. L. 95-501 added subsec. (b).
Subsec. (c). Pub. L. 95-501 added subsec. (c).

§ 1707b. Deferred payment sales

(a) Financing by Commodity Credit Corporation

To develop new market opportunities for the sale of United States agricultural commodities and to maintain and expand existing foreign markets for such commodities, the Secretary of Agriculture may provide Commodity Credit Corporation financing to exporters of such commodities who wish to provide deferred payment terms to buyers in other nations in order to meet sales competition from other nations or to make additional export sales. Except as otherwise provided in section 1707c of this title, financing under this section shall be available only with respect to sales to those nations that are eligible for financing under the short-term export credit sales program conducted by the Commodity Credit Corporation.

(b) Application for financing; export sales plan

Exporters who are willing to sell United States agricultural commodities to foreign buyers on deferred payment terms of not to exceed three years and who must provide such deferred payment terms in order to meet sales competition from other nations, or to make additional export sales, may apply to the Commodity Credit Corporation for financing such sales. Financing under this section shall not be provided by the Corporation until the applicant's export sales plan has been approved by the Corporation and the applicant has established to the satisfaction of the Corporation that exports have been made in accordance with the approved plan.

(c) Repayment in dollars

Repayment to the Commodity Credit Corporation shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan. Interest rates on such financing shall be no higher than those charged for financing under the short-term export credit sales program conducted by the Corporation.

(d) Performance guarantee

The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the sale.

(e) Review

Financing agreements with exporters entered into under this section shall be subject to such other terms and conditions as the Secretary may deem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(f) Authority of Secretary or Commodity Credit Corporation

The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(Pub. L. 95-501, title II, § 201, Oct. 21, 1978, 92 Stat. 1686.)

CODIFICATION

Section was enacted as part of the Agricultural Trade Act of 1978 and not as part of the Agricultural Trade Development and Assistance Act of 1954 which is classified to this chapter.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776 set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707c, 1707d of this title.

§ 1707c. Credit sales to the People's Republic of China

Notwithstanding any other provision of law, in order to expand and develop markets for United States agricultural commodities, the Commodity Credit Corporation may provide financing for commercial sales of agricultural commodities out of private stocks on terms of not to exceed three years to the People's Republic of China under (1) the short-term export credit sales program conducted by the Corporation, and (2) the deferred payment sales program for exporters established under section 1707b of this title.

(Pub. L. 95-501, title II, § 202, Oct. 21, 1978, 92 Stat. 1687.)

CODIFICATION

Section was enacted as part of the Agricultural Trade Act of 1978 and not as part of the Agricultural Trade Development and Assistance Act of 1954 which is classified to this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707b, 1707d of this title.

§ 1707d. Definition

The term "agricultural commodity" as used in sections 1707b and 1707c of this title includes any agricultural commodity or product thereof.

(Pub. L. 95-501, title II, § 203, Oct. 21, 1978, 92 Stat. 1687.)

CODIFICATION

Section was enacted as part of the Agricultural Trade Act of 1978 and not as part of the Agricultural Trade Development and Assistance Act of 1954 which is classified to this chapter.

§ 1708. Ocean transportation costs

STUDY OF PAYMENTS OF OCEAN FREIGHT DIFFERENTIALS

Pub. L. 95-88, title II, § 214, Aug. 3, 1977, 91 Stat. 552, provided that: "The President shall conduct a comprehensive study of payment of ocean freight differentials between United States-flag rates and foreign-flag rates when United States-flag vessels are required to be used, in accordance with section 901(b) of the Merchant Marine Act, 1936 [section 1241(b) of

Title 46, Shipping], for the shipment of agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954 [which enacted this chapter and amended sections 1427 and 1431 of this title] and shall recommend possible changes in the method of reimbursement which is now borne by the Commodity Credit Corporation. Such study shall be completed within 180 days after the date of enactment of this section [Aug. 3, 1977] and submitted to the following committees of the Congress: the Senate Committee on Agriculture, Nutrition, and Forestry; the Senate Committee on Commerce, Science, and Transportation; the House Committee on Agriculture; the House Committee on Merchant Marine and Fisheries; and the House Committee on International Relations."

§ 1709. Self-help measures

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706, 1726, 1727, 1732, 1736c, 1736e, 1743 of this title.

§ 1711. Assistance to most seriously affected countries; poverty criterion; report to Congress

Not more than 25 per centum of the food aid commodities provided under this subchapter in each fiscal year shall be allocated and agreed to be delivered to countries other than those which meet the poverty criterion established for International Development Association financing and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad, unless the President certifies to the Congress that (1) the use of such food assistance is required for humanitarian food purposes, or (2) the quantity of commodities which would be required to be allocated under this section to countries which meet the International Development Association poverty criterion could not be used effectively to carry out the humanitarian or development purposes of this subchapter. A reduction below 75 per centum in the proportion of food aid allocated and agreed to be delivered to countries which meet the International Development Association poverty criterion and which are affected by inability to secure sufficient food for their immediate requirements through their own production or commercial purchase from abroad which results from significantly changed circumstances occurring after the initial allocation shall not constitute a violation of the requirements of this section. Any reallocation of food aid shall be in accordance with this section so far as practicable. The President shall report promptly any such reduction, and the reasons therefor, to the Congress.

(As amended Aug. 3, 1977, Pub. L. 95–88, title II, § 202, 91 Stat. 545.)

AMENDMENTS

1977—Pub. L. 95–88 substituted references to countries which meet the poverty criterion established for International Development Association financing for references to countries whose annual per capita gross national product is $300 or less, struck out provision for Congressional disapproval of a Presidential certification of need, struck out provision covering the use of World Bank data in determining per capita gross national product, and added authority for the President to certify to Congress that the quantity of commodities which would be required to be allocated under this section to countries which meet the International Development Association poverty criterion could not be used effectively to carry out the humanitarian or development purposes of this subchapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

REPORT TO CONGRESS ON EFFECTIVENESS OF FOOD ASSISTANCE UNDER AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE

Pub. L. 95–424, title II, § 201, Oct. 6, 1978, 92 Stat. 954, provided that: "The Congress finds that food assistance provided by the United States to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 [section 1701 et seq. of this title] often is distributed within those countries in ways which do not significantly alleviate hunger and malnutrition in those countries. In order to determine how United States food assistance can be more effectively used to meet the food needs of the poor in developing countries, the President shall submit to the Congress not later than February 1, 1979, a report (1) explaining why food assistance provided to developing countries under title I of the Agricultural Trade Development and Assistance Act of 1954 is not more successful in meeting the food needs of those suffering from hunger and malnutrition, and (2) recommending steps which could be taken (including increasing the proportion of food assistance which is furnished under titles II and III of that Act [sections 1721 et seq. and 1727 et seq. of this title]) to increase the effectiveness of food assistance under that Act [see Short Title note under section 1691 of this title] in meeting those needs."

§ 1712. Human rights

(a) Agreements prohibited with countries violating internationally recognized human rights; exception for agreements directly benefiting needy people

No agreement may be entered into under this subchapter to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such agreement will directly benefit the needy people in such country. An agreement will not directly benefit the needy people in the country for purposes of the preceding sentence unless either the commodities themselves or the proceeds from their sale will be used for specific projects or programs which the President determines would directly benefit the needy people of that country. The agreement shall specify how the projects or programs will be used to benefit the needy people and shall require a report to the President on such use within 6 months after the commodities are delivered to the recipient country.

(b) Presidential demonstration that agreement will directly benefit needy people of country

To assist in determining whether the requirements of subsection (a) of this section are being met, the Committee on Agriculture, Nutrition,

and Forestry of the Senate or the Committee on International Relations of the House of Representatives may require the President to submit in writing information demonstrating that an agreement will directly benefit the needy people in a country.

(c) Investigations by international organizations

In determining whether or not a government falls within the provisions of subsection (a) of this section, consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

(d) Presidential report

The President shall transmit to the Speaker of the House of Representatives, the President of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, in the annual presentation materials on planned programing of assistance under this chapter and sections 1427 and 1431 of this title, a full and complete report regarding the steps he has taken to carry out the provisions of this section.

(July 10, 1954, ch. 469, title I, § 112, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 203, 91 Stat. 545.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1713. Priority for financing sales of food and fiber commodities

In the allocation of funds made available under this subchapter, priority shall be given to financing the sale of food and fiber commodities.

(July 10, 1954, ch. 469, title I, § 113, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 204, 91 Stat. 546.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1714. High protein, blended, and fortified foods

(a) Congressional declaration of policy

The Congress declares it to be the policy of the United States to assist developing countries in the transition from food assistance recipients to economic self-sufficiency and to assist those nations which have been recipients of high protein, blended, or fortified foods under subchapter III of this chapter to continue to combat hunger and malnutrition among the lower income segments of their population, especially children, through the continued provision of these foods under this subchapter.

(b) Waiver of repayment

In implementing the policy declared in subsection (a), the President, in entering into agreements for the sale of high protein, blended, or fortified foods under this subchapter with countries which (1) give assurance that the benefits of any waiver under this section will be passed on to the individual recipients of such foods, and (2) have a reasonable potential for transition to commercial purchasers of such foods, may make provisions for a waiver of repayment of up to that part of the product value which is attributable to the costs of processing, enrichment, or fortification.

(c) Impact on other commercial and concessional sales of whole grains

In implementing this section, due care shall be taken to minimize its impact on other commercial and concessional sales of whole grains and, where feasible, agreements under this subchapter utilizing the authority contained in this section will provide for sales of such commodities.

(July 10, 1954, ch. 469, title I, § 114, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 205, 91 Stat. 546.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1715. Sales procedure

(a) No purchases of food commodities shall be financed under this subchapter unless they are made on the basis of an invitation for bid publicly advertised in the United States and on the basis of bid offerings which shall conform to such invitation and shall be received and publicly opened in the United States. All awards in the purchase of commodities financed under this subchapter shall be consistent with open, competitive, and responsive bid procedures, as determined by the Secretary of Agriculture. Commissions, fees, or other payments to any selling agent shall—unless waived by the Secretary—be prohibited in any purchase of food commodities financed under this subchapter.

(b) Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid or to be paid by any supplier of a commodity or ocean transportation financed by the Commodity Credit Corporation under this subchapter, to any agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the importing country, shall be reported to the Secretary of Agriculture by the supplier of the commodity or ocean transportation. The report shall identify the person or entity to whom the payment is made and the transaction in connection with which the payment is made. The Secretary shall maintain such information for public inspection, publish a report thereof annually, and forward a copy of the report to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Any supplier of a commodity or ocean transportation who fails to file such a report or who files a false report shall be ineli-

gible to furnish—directly or indirectly—commodities or ocean transportation financed under this subchapter for a period of five years.

(July 10, 1954, ch. 469, title I, § 115, as added Sept. 29, 1977, Pub. L. 95-113, title XII, § 1202, 91 Stat. 955.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SUBCHAPTER III—FAMINE RELIEF AND OTHER ASSISTANCE AND DONATIONS OF FOOD BOTH ON A GOVERNMENT-TO-GOVERNMENT BASIS AND THROUGH VOLUNTARY ORGANIZATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1714, 1732, 1736b, 1736c, 1736e, 1743 of this title; title 10 section 2681.

§ 1721. Statement of purpose; availability of commodities; minimum quantity for distribution

[See main edition for text of (a)]

(b) The minimum quantity of agricultural commodities distributed under this subchapter—

(1) for fiscal years 1978 through 1980 shall be 1,600,000 metric tons, of which not less than 1,300,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

(2) for fiscal year 1981 shall be 1,650,000 metric tons, of which not less than 1,350,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program; and

(3) for fiscal year 1982 and each fiscal year thereafter shall be 1,700,000 metric tons, of which not less than 1,400,000 metric tons shall be distributed through nonprofit voluntary agencies and the World Food Program;

unless the President determines and reports to the Congress, together with his reasons, that such quantity cannot be used effectively to carry out the purposes of this subchapter: *Provided*, That such minimum quantity shall not exceed the total quantity of commodities determined to be available for disposition under this chapter and sections 1427 and 1431 of this title pursuant to section 1731 of this title, less the quantity of commodities required to meet famine or other urgent or extraordinary relief requirements.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 206, 91 Stat. 547.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88 substituted provisions increasing and setting specific minimums for commodities to be distributed for fiscal years 1978 through 1980, for 1981, and for fiscal year 1982 and each fiscal year thereafter, for provisions which had set a fixed minimum of 1,300,000 tons of agricultural commodities each fiscal year, of which the minimum to be distributed through nonprofit voluntary agencies and the World Food Program was 1,000,000 tons each fiscal year.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1722. Furnishing commodities through friendly governments, agencies, and organizations; use of nonprofit voluntary agencies to extent practicable; identification of origin of commodities; assistance for community and other self-help activities; displacement of dollar sales

(a) The President may furnish commodities for the purposes set forth in section 1721 of this title through such friendly governments and such agencies, private or public, including intergovernmental organizations such as the world food program and other multilateral organizations in such manner and upon such terms and conditions as he deems appropriate. The President shall, to the extent practicable, utilize nonprofit voluntary agencies registered with, and approved by, the Advisory Committee on Voluntary Foreign Aid. If no United States nonprofit voluntary agency registered with and approved by the Advisory Committee on Voluntary Foreign Aid is available, the President may utilize a foreign nonprofit voluntary agency which is registered with and approved by the Advisory Committee. Insofar as practicable, all commodities furnished hereunder shall be clearly identified by appropriate marking on each package or container in the language of the locality where they are distributed as being furnished by the people of the United States of America. Except in the case of emergency, the President shall take reasonable precaution to assure that commodities furnished hereunder will not displace or interfere with sales which might otherwise be made.

(b)(1) Assistance to needy persons under this subchapter shall be directed, insofar as practicable, toward community and other self-help activities designed to alleviate the causes of need for such assistance.

(2) In order to assure that food commodities made available under this subchapter are used effectively, indigenous workers shall be employed, to the extent feasible, to provide information on nutrition and conduct food distribution programs in the most remote villages.

(3) In distributing food commodities under this subchapter, priority shall be given, to the extent feasible, to those who are suffering from malnutrition by using means such as (A) giving priority within food programs for preschool children to malnourished children, and (B) giving priority to the poorest regions of countries.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, §§ 207, 208(a), 91 Stat. 547.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-88, §§ 207(1), (2), 208(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, struck out requirement that assistance to needy persons, insofar as practicable, be directed toward community and other self-help activities designed to alleviate the causes of the need for such assistance, and added provisions authorizing the President to utilize a foreign nonprofit voluntary

agency which is registered with and approved by the Advisory Committee on Voluntary Foreign Aid if no United States nonprofit voluntary agency registered with and approved by the Advisory Committee is available.

Subsec. (b). Pub. L. 95–88, § 207(3), added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

REGISTRATION OF FOREIGN NONPROFIT VOLUNTARY AGENCIES

Section 208(b) of Pub. L. 95–88 provided that: "For purposes of implementing the amendment made by subsection (a) [providing for the utilization by the President of foreign nonprofit voluntary agencies], the President shall issue regulations governing registration with an approval by the Advisory Committee on Voluntary Foreign Aid of foreign nonprofit voluntary agencies."

§ 1723. Payment of costs and charges

The Commodity Credit Corporation may, in addition to the cost of acquisition, pay with respect to commodities made available under this subchapter costs for packaging, enrichment, preservation, and fortification; processing transportation, handling, and other incidental costs up to the time of their delivery free on board vessels in United States ports; ocean freight charges from United States ports to designated ports of entry abroad; transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports; and charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

(As amended Aug. 3, 1977, Pub. L. 95–88, title II, § 209, 91 Stat. 548.)

AMENDMENTS

1977—Pub. L. 95–88 substituted "transportation from United States ports to designated points of entry abroad in the case (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specific country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports" for ", or, in the case of landlocked countries, transportation from United States ports to designated points of entry abroad".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1724. Authorization of appropriations for reimbursement of Commodity Credit Corporation; limitation; funds for purchase of foreign currencies

Programs of assistance shall not be undertaken under this subchapter during any calendar year which call for an appropriation of more than $750,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available) plus any amount by which programs of assistance undertaken under this subchapter in the preceding calendar year have called or will call for appropriations to reimburse the Commodity Credit Corporation in amounts less than were authorized for such purpose during such preceding year. In addition to other funds available for such purposes under any other Act, funds made available under this subchapter may be used in an amount not exceeding $7,500,000 annually to purchase foreign currencies accruing under subchapter II of this chapter in order to meet costs (except the personnel and administrative costs of cooperating sponsors, distributing agencies, and recipient agencies, and the costs of construction or maintenance or any church owned or operated edifice or any other edifices to be used for sectarian purposes) designed to assure that commodities made available under this subchapter are used to carry out effectively the purposes for which such commodities are made available or to promote community and other self-help activities designed to alleviate the causes of the need for such assistance: *Provided, however,* That such funds shall be used only to supplement and not substitute for funds normally available for such purposes from other non-United States Government sources.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XII, § 1203, 91 Stat. 956.)

AMENDMENTS

1977—Pub. L. 95–113 substituted "$750,000,000" for "$600,000,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1726. Limitation on use of foreign currencies; reports to Congress

Except to meet famine or other urgent or extraordinary relief requirements, no assistance under this subchapter shall be provided under an agreement permitting generation of foreign currency proceeds unless (1) the country receiving the assistance is undertaking self-help measures in accordance with section 1709 of this title, (2) the specific uses to which the foreign currencies are to be put are set forth in a written agreement between the United States and the recipient country, and (3) such agreement provides that the currencies will be used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this subchapter to the neediest individuals in recipient countries. The President shall include information on currencies used in accordance with this section in the reports required under section 1736b of this title and section 2417 of title 22.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 210, 91 Stat. 548.)

AMENDMENTS

1977—Pub. L. 95-88 substituted "used for increasing the effectiveness of the programs of food distribution and increasing the availability of food commodities provided under this subchapter to the neediest individuals in recipient countries" for "used for purposes specified in section 2151a of title 22".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SUBCHAPTER III-A—FOOD FOR DEVELOPMENT PROGRAM [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1703, 1736b of this title.

§ 1727. Congressional declaration of purpose

(a) In order to establish a strong relationship between United States food assistance and efforts by developing countries to increase the availability of food for the poor in such countries and improve in other ways the quality of their lives, the President is authorized to encourage the use of the resources provided by the concessional financing of agricultural commodities under this chapter and sections 1427 and 1431 of this title for agricultural and rural development, including voluntary family planning, health, and nutrition programs, by permitting the funds accruing from the local sale of such commodities which are used for such purposes to be applied against the repayment obligation of governments receiving concessional financing under this chapter and sections 1427 and 1431 of this title. The agreement between the United States Government and an eligible developing country government which provides for repayment of the obligation to the United States accruing from the concessional sale of United States agricultural commodities by the use of funds from the sale of such commodities in the participating country for specified development purposes shall be called a Food for Development Program.

(b) The overall goal of assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be to increase the access of the poor in the recipient country to a growing and improving food supply through activities designed to improve the production, protection, and utilization of food, and to increase the well-being of the poor in the rural sector of the recipient country. Assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be used for programs of agricultural development, rural development, nutrition, health services, and population planning, and the program described in section 1736(a)(1) of this title, in those countries which are undertaking (or are seriously prepared to undertake in connection with the provision of agricultural commodities under this chapter and sections 1427 and 1431 of this title) self-help measures to increase agricultural production, improve storage, transportation, and distribution of commodities, and reduce population growth in accordance with section 1709 of this title, when such programs are directed at and likely to achieve the policy objectives of sections 2151a and 2151b of title 22 and are consistent with the policy objectives of this chapter and sections 1427 and 1431 of this title. Particular emphasis should be placed on activities which effectively assist small farmers, tenants, sharecroppers, and landless agricultural laborers, by expanding their access to the rural economy through services and institutions at the local level, and otherwise providing opportunities for the poor who are dependent upon agriculture and agriculturally related activities to better their lives through their own efforts.

(July 10, 1954, ch. 469, title III, § 301, as added Aug. 3, 1977, Pub. L. 95-88, title II, § 211(a)(2), 91 Stat. 548.)

PRIOR PROVISIONS

A prior section 301 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1427 of this title, was renumbered section 308 by Pub. L. 95-88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727a. Participation of developing countries

(a) Presidential designation of countries as eligible

Whenever the President, in consultation with the government of a developing country, determines that such developing country meets the criteria specified in subsection (b) of this section and could benefit from the sale of United States agricultural commodities (including processed and blended foods) for the purposes of generating funds or distributing such commodities for agricultural and rural development, and improving food distribution and use within such country, the President may designate such country as eligible for a Food for Development Program.

(b) Criteria for eligibility

In order to be eligible for a Food for Development Program under this section, a country must (1) have a need for external resources to improve its food production, marketing, distribution, and storage systems; (2) meet the criterion used to determine basic eligibility for development loans of the International Development Association of the International Bank for Reconstruction and Development; (3) have the ability to utilize effectively the resources made available by the sale of food commodities under this section for the purposes specified in clause (1) of this subsection; and (4) indicate the willingness to take steps to improve its food production, marketing, distribution, and storage systems.

(c) Minimum aggregate value of projects; waiver of minimums

(1) Except as provided in paragraph (2) of this subsection, the aggregate value of all agreements entered into under this subchapter,

subchapter I of this chapter, and sections 1427 and 1431 of this title—

(A) for fiscal year 1978, shall be not less than 5 percent,

(B) for fiscal year 1979, shall be not less than 10 percent, and

(C) for fiscal year 1980 and each fiscal year thereafter, shall be not less than 15 percent,

of the aggregate value of all agreements entered into under subchapter II of this chapter for such fiscal year.

(2) The President may waive the requirement of paragraph (1) of this subsection with respect to a fiscal year if he determines that there are an insufficient number of agricultural and rural development projects which qualify for assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title and that therefore the humanitarian purposes of this chapter and sections 1427 and 1431 of this title would be better served by furnishing financing under other provisions of this chapter and sections 1427 and 1431 of this title. Any such waiver shall be reported to the Congress, together with a detailed statement of the reasons for the lack of acceptable projects and a detailed description of efforts by the United States Government to assist eligible countries, pursuant to section 1727b(a) of this title, in identifying appropriate projects for assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title.

(3) Greatest efforts shall be made by relevant United States agencies to encourage maximum utilization of assistance for Food for Development projects under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title, even beyond the minimums required by paragraph (1) of this subsection.

(July 10, 1954, ch. 469, title III, § 302, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(2), 91 Stat. 549.)

PRIOR PROVISIONS

A prior section 302 of act July 10, 1954, ch. 469, title III, 68 Stat. 458, which amended section 1431 of this title, was renumbered section 309 by Pub. L. 95–88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727b. Multiyear utilization proposal

(a) Formulation; content

A country designated as eligible and wishing to participate in a Food for Development Program shall formulate, with the assistance (if requested) of the United States Government, a multiyear proposal which shall be submitted to the President. Such proposal shall include an annual value or amount of agricultural commodities proposed to be financed under the authority of subchapter II of this chapter pursuant to the provisions of this subchapter and subchapter I of this chapter, and sections 1427 and 1431 of this title, and a plan for the intended uses of commodities or the funds generated from the sale of such commodities, on an annual basis for each year such funds are to be disbursed. Such proposal shall also specify the nature and magnitude of problems to be affected by the effort, and shall present targets in quantified terms, insofar as possible, and a description of the relationships among the various projects, activities, or programs to be supported.

(b) Integration with other forms of development assistance

The multiyear utilization proposal for a Food for Development Program shall include, but not be limited to, a statement of how assistance under such Program will be integrated into and complement that country's overall development plans and other forms of bilateral and multilateral development assistance, including assistance made available under section 103 of the Foreign Assistance Act of 1961 [22 U.S.C. 2151a] or under any other subchapter of this chapter.

(c) Non-replacement of other programs

In his review of any utilization proposal for a Food for Development Program, the President shall be satisfied that such assistance is intended to complement, but not replace, assistance authorized by the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or any other program of bilateral or multilateral assistance, or under the development program of the country desiring to initiate a Food for Development Program.

(July 10, 1954, ch. 469, title III, § 303, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(2), 91 Stat. 550.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (c), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§ 2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

PRIOR PROVISIONS

A prior section 303 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1692 of this title, was renumbered section 310 by Pub. L. 95–88, title II, § 211(a)(1), Aug. 3, 1977, 91 Stat. 548.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1727a, 1727c, 1727f of this title.

§ 1727c. Credit

(a) Commodity Credit Corporation

Whenever a utilization proposal has been agreed upon by the President and the participating country, the Commodity Credit Corporation is authorized to furnish credit under the authority of subchapter II of this chapter to the participating country for the purchase of a specific annual value of agricultural commodities to be delivered over a period of from one to five years, subject to the availability of commodities under section 1731 of this title.

(b) Payment by recipient government

Notwithstanding any other provision of this chapter and sections 1427 and 1431 of this title, no payment except as provided for under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be required of the recipient government as a part of any agreement to finance the sale of agricultural commodities pursuant to a Food for Development Program.

(c) Waiver

In making food assistance available under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the President may waive any requirement contained in section 1727b (a) or (b) of this title, in that portion of section 1727b(c) of this title which requires that assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title is intended to complement but not replace any part of the development program of the participating country, or in section 1727e of this title, if he finds that such country is unable to meet such requirement but could use assistance under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title to meet important humanitarian or developmental objectives of this chapter and sections 1427 and 1431 of this title. Such waivers, and the reasons therefor, shall be reported annually by the President to the Congress.

(d) Payment of freight charges of relatively least developed countries

The Commodity Credit Corporation may pay, with respect to commodities made available under this subchapter to a country on the United Nations Conference on Trade and Development list of relatively least developed countries, freight charges from United States ports to designated ports of entry abroad or to designated points of entry abroad in the case of landlocked countries.

(July 10, 1954, ch. 469, title III, § 304, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(2), 91 Stat. 550, and amended Oct. 6, 1978, Pub. L. 95–424, title II, § 202, 92 Stat. 955.)

PRIOR PROVISIONS

A prior section 304 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1693 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–424 added subsec. (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727d. Funds generated from sale of agricultural commodities; disbursements as payment with respect to credit or repayment obligation

(a) Funds generated from the sale of agricultural commodities by any participating country under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title shall be held in a special account, where practicable, to be disbursed for the purposes described in the approved Food for Development Program of such country. The amount of funds disbursed for such purposes and in accordance with the agreement shall be deemed payments for the purposes of section 1703(b) of this title.

(b) Such disbursements shall be deemed to be payments with respect to the credit furnished pursuant to the agreement or if, in the case of a country on the United Nations Conference on Trade and Development list of relatively least developed countries, the disbursements in a fiscal year are greater than the amount of the annual repayment obligation which that country would have to meet for that fiscal year under the agreement but for the disbursements in accordance with the Food for Development Program, then the disbursements which are in excess of the amount of that annual repayment obligation may, to the extent provided in the agreement, be considered as payments with respect to the annual repayment obligations of that country for that fiscal year under other financing agreements under this chapter and sections 1427 and 1431 of this title.

(July 10, 1954, ch. 469, title III, § 305, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(2), 91 Stat. 550, and amended Oct. 6, 1978, Pub. L. 95–424, title II, § 203, 92 Stat. 955.)

PRIOR PROVISIONS

A prior section 305 of act July 10, 1954, ch. 469, title III, 68 Stat. 459, which enacted section 1694 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

AMENDMENTS

1978—Subsecs. (a), (b). Pub. L. 95–424 designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

§ 1727e. Report to President

Not more than one year after the initial delivery of commodities to any country under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title and each year thereafter for the period of agreement, the government of the participating country, with the assistance (if requested) of the United States Government, shall submit a comprehensive report to the President on the activities and progress achieved under the Food for Development Program for such country, includ-

ing, but not limited to, a comparison of results with projected targets, a specific accounting for funds generated, their uses, and the outstanding balances at the end of the most recent fiscal year. Such annual report may also include recommendations for modification and improvement in the Food for Development Program of such country.

(July 10, 1954, ch. 469, title III, § 306, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(2), 91 Stat. 551.)

PRIOR PROVISIONS

A prior section 306 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 11, 73 Stat. 608, which enacted section 1695 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1727c of this title.

§ 1727f. Annual Presidential review

(a) Each year the President shall review the disposition of all agreements providing for the use of the proceeds from the sale of agricultural commodities pursuant to this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title for which such funds were not fully disbursed the preceding year. The results of such review shall be included in the annual report to the Congress required under section 1736b(a) this title.

(b) If the President finds that the provisions of an agreement are not being substantially met, he shall not extend financing for sales under this subchapter, subchapter I of this chapter, and sections 1427 and 1431 of this title until the end of the following fiscal year or until the situation is remedied, whichever occurs first, unless the failure to meet the provisions is due to unusual circumstances beyond the control of the recipient government.

(July 10, 1954, ch. 469, title III, § 307, as added Aug. 3, 1977, Pub. L. 95–88, title II, § 211(a)(2), 91 Stat. 551.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

PRIOR PROVISIONS

A prior section 307 of act July 10, 1954, ch. 469, title III, as added Sept. 21, 1959, Pub. L. 86–341, title I, § 12, 73 Stat. 609, which enacted section 1696 of this title, was repealed by Pub. L. 89–808, § 2(D), Nov. 11, 1966, 80 Stat. 1535.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 1731. Agricultural commodities available for disposition; determination by Secretary of Agriculture; criteria; storage facilities; domestic production in recipient countries

(a) After consulting with other agencies of the Government affected and within policies laid down by the President for implementing this chapter and sections 1427 and 1431 of this title, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall determine the agricultural commodities and quantities thereof available for disposition under this chapter and sections 1427 and 1431 of this title, and the commodities and quantities thereof which may be included in the negotiations with each country. No commodity shall be available for disposition under this chapter and sections 1427 and 1431 of this title if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity, unless the Secretary of Agriculture determines that some part of the supply thereof should be used to carry out urgent humanitarian purposes of this chapter and sections 1427 and 1431 of this title.

(b) No agricultural commodity may be financed or otherwise made available under the authority of this chapter and sections 1427 and 1431 of this title except upon a determination by the Secretary of Agriculture that (1) adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent the spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country.

(As amended Aug. 3, 1977, Pub. L. 95–88, title II, § 212, 91 Stat. 551; Sept. 29, 1977, Pub. L. 95–113, title XII, § 1204, 91 Stat. 956.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95–113 added provisions under which commodities may be made available for disposition if the Secretary of Agriculture determines that some part of the supply of commodities should be used to carry out urgent humanitarian purposes, even though such disposition would reduce the domestic supply of those commodities below that needed to meet domestic requirements, provide adequate carryover, and allow for anticipated exports.

Pub. L. 95–88 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95–88 added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Amendment by Pub. L. 95–88 effective Oct. 1, 1977, see section 215 of Pub. L. 95–88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707, 1721, 1727c of this title.

§ 1732. Agricultural commodity defined; fishery products available

The term "agricultural commodity" as used in this chapter and sections 1427 and 1431 of

this title shall include any agricultural commodity produced in the United States or product thereof produced in the United States: *Provided, however,* That the term "agricultural commodity" shall not include alcoholic beverages, and for the purposes of subchapter III of this chapter, tobacco or products thereof. The foregoing proviso shall not be construed as prohibiting representatives of the domestic wine industry from participating in market development activities carried out with foreign currencies made available under subchapter II of this chapter which have as their purpose the expansion of export sales of United States agricultural commodities. Subject to the availability of appropriations therefor, any domestically produced fishery product may be made available under this chapter and sections 1427 and 1431 of this title. In the allocation of funds made available under subchapter II of this chapter, priority shall be given to financing the sale of food and fiber commodities.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XII, § 1205, 91 Stat. 956.)

AMENDMENTS

1977—Pub. L. 95-113 required that in allocation of funds made available under subchapter II of this chapter priority be given to financing the sale of food and fiber commodities.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1733. Authorization of appropriations; reimbursement of Commodity Credit Corporation; classification of expenditures

(a) There are authorized to be appropriated such sums as may be necessary to carry out this chapter and sections 1427 and 1431 of this title including such amounts as may be required to make payments to the Commodity Credit Corporation, to the extent the Commodity Credit Corporation is not reimbursed under sections 1704(j) and 1705 of this title, for its actual costs incurred or to be incurred. In presenting his budget, the President shall classify expenditures under this chapter and sections 1427 and 1431 of this title as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

(b) Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all costs incurred under this chapter and sections 1427 and 1431 of this title, commodities from the Commodity Credit Corporation inventory, which were acquired under a domestic price support program, shall be valued at the export market price therefor, as determined by the Secretary of Agriculture, as of the time the commodity is made available under this chapter and sections 1427 and 1431 of this title.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XII, § 1206, 91 Stat. 956.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1206(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-113, § 1206(2), added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1736. Food production assistance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1704, 1706, 1727 of this title.

§ 1736b. Reports to Congress; revised regulations governing operations; bagged commodities

[*See main edition for text of* (a)]

(b) Not later than September 30 of each year, the President shall submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programing of food assistance under subchapter II of this chapter for the coming fiscal year. Not later than December 31, March 31, and June 30 of each year, the President shall submit a report to the Congress showing the current status of planned programing of food assistance under subchapter II of this chapter for the current fiscal year.

(c) Beginning October 1, 1978, and at each five-year interval thereafter, the President shall submit to the Congress a comparative cross-country evaluation of programs conducted under subchapters I, III, and III-A of this chapter, and sections 1427 and 1431 of this title. Such evaluations shall cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and the Caribbean), and shall assess the nutritional and other impacts, achievements, problems, and future prospects for programs under subchapters I, III, and III-A of this chapter, and sections 1427 and 1431 of this title.

(d)(1) Not later than six months following September 29, 1977, and at each two-year interval thereafter, the Secretary of Agriculture shall issue revised regulations governing all operations under subchapter II of this chapter, including operations relating to purchasing countries, suppliers of commodities or ships, and purchasing or shipping agents. The regulations shall include, but not be limited to, prohibitions against conflicts of interest, as determined by the Secretary, between (A) recipient countries (or other purchasing entities) and their agents, (B) suppliers of commodities, (C) suppliers of ships, and (D) other shipping interests.

(2) The regulations shall be designed to encourage an increase in the number of exporters participating in the program.

(3) All revised regulations governing operations under subchapters I, II, and III-A of this chapter, and sections 1427 and 1431 of this title shall be transmitted to Congress by the Secretary as soon as practicable after their issuance.

(e) Bagged commodities for the purpose of financing by the Commodity Credit Corporation under this chapter and sections 1427 and 1431 of this title may, subject to regulations issued

by the Secretary of Agriculture, be considered "exported" upon delivery at port, and upon presentation of a dock receipt in lieu of an on-board bill of lading.

(As amended Aug. 3, 1977, Pub. L. 95-88, title II, § 213, 91 Stat. 551; Sept. 29, 1977, Pub. L. 95-113, title XII, § 1207, 91 Stat. 957.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-88 substituted provisions that, not later than September 30 of each year, the President submit to the Congress a report containing a global assessment of food production and needs and setting forth planned programing of food assistance under subchapter II of this chapter for the coming fiscal year, and that, not later than December 31, March 31, and June 30 of each year, the President submit a report to the Congress showing the current status of planned programing of food assistance under subchapter II of this chapter for the current fiscal year, for provisions that, in his presentation to the Congress of planned programing of food assistance for each fiscal year, the President include a global assessment of food production and needs, self-help steps which are being taken by food-short countries under section 1709(a) of this title, steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance, and the relationship between food assistance provided to each country under this chapter and other foreign assistance provided to such country by the United States and other donors.

Subsec. (c). Pub. L. 95-88 substituted provisions that, beginning Oct. 1, 1978, and at each five-year interval thereafter, the President submit to the Congress a comparative cross-country evaluation of programs conducted under subchapters I, III, and III-A of this chapter, and sections 1427 and 1431 of this title and that such evaluations cover no fewer than five countries sampled from the developing regions (Asia, Africa, Latin America, and Caribbean), and assess the nutritional and other impacts, achievements, problems, and future prospects for programs thereunder, for provisions that, not later than November 1 of each calendar year the President submit to the House Committee on Agriculture, the House Committee on International Relations, the Senate Committee on Agriculture and Forestry, and the Senate Committee on Foreign Relations a revised global assessment of food production and needs, and revised planned programming of food assistance for the current fiscal year, to reflect, to the maximum extent feasible, the actual availability of commodities for food assistance.

Subsecs. (d), (e). Pub. L. 95-113 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1977 AMENDMENTS

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Amendment by Pub. L. 95-88 effective Oct. 1, 1977, see section 215 of Pub. L. 95-88, set out as an Effective Date of 1977 Amendment note under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1707, 1726, 1727f of this title.

§ 1736c. Termination date for agreements to finance sales under subchapter II and programs of assistance under subchapter III

No agreements to finance sales under subchapter II of this chapter and no programs of assistance under subchapter III of this chapter shall be entered into after December 31, 1981. New spending authority provided for subchapter II of this chapter by the amendment to this section made by the Food and Agriculture Act of 1977 shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XII, § 1208, 91 Stat. 957.)

REFERENCES IN TEXT

The new spending authority provided for subchapter II of this chapter by the amendment to this section made by the Food and Agriculture Act of 1977, referred to in text, means the new spending authority provided for subchapter II of this chapter resulting from the extension, by Pub. L. 95-113, of the termination date for agreements from Dec. 31, 1977, to Dec. 31, 1981.

AMENDMENTS

1977—Pub. L. 95-113 extended termination date for agreements from Dec. 31, 1977, to Dec. 31, 1981, and added directive that new spending authority provided for subchapter II of this chapter by the amendment to this section by the Food and Agriculture Act of 1977 be effective for any fiscal year only to the extent or in any such amounts as are provided for in appropriation acts.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 43—FOREIGN MARKET DEVELOPMENT

SUBCHAPTER I—GENERAL PROVISIONS; AGRICULTURAL COUNSELORS AND AGRICULTURAL ATTACHÉS

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SUBCHAPTER II—UNITED STATES AGRICULTURAL TRADE OFFICES [NEW]

1765a. Agricultural Trade Offices
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SUBCHAPTER III—REPRESENTATION, ALLOWANCES, REGULATIONS, GENERAL PROVISIONS, AND AUTHORIZATION FOR APPROPRIATIONS [NEW]

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SUBCHAPTER I—GENERAL PROVISIONS; AGRICULTURAL COUNSELORS AND AGRICULTURAL ATTACHES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1765a, 1765h of this title.

§ 1761. Foreign markets; collection of information

For the purpose of encouraging and promoting the marketing of agricultural commodities of the United States and assisting American farmers, processors, distributors, and exporters to adjust their operations and practices to meet world conditions, the Secretary of Agriculture shall acquire information regarding the competition and demand for United States agricultural commodities, the marketing and distribution of such commodities in foreign countries and shall be responsible for the interpretation and dissemination of such information in the United States and shall make investigations abroad regarding the factors affecting and influencing the export of United States agricultural commodities, and shall conduct abroad any other activities including the demonstration of standards of quality for American agricultural commodities for which the Department of Agriculture now has or in the future may have such standards, as he deems necessary. Nothing contained herein shall be construed as prohibiting the Department of Agriculture from conducting abroad any activity for which authority now exists.

(As amended Oct. 21, 1978, Pub. L. 95-501, title III, § 301(3), 92 Stat. 1688.)

AMENDMENTS

1978—Pub. L. 95-501 substituted "agricultural commodities" for "agricultural products" in four places and substituted "such commodities" for "said products".

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-501 provided: "That this Act [enacting sections 1707b to 1707d, 1765a to 1765h, 1769, 2211a of this title, amending sections 1707a, 1761, 1762, 1764, 1765, 1766b of this title, section 5314 of Title 5, Government Organization and Employees, redesignating sections 1762(d), (f), and 1763 as sections 1766a to 1766c of this title, and enacting provisions set out as notes under sections 612c-3, 1761, and 2211a of this title and section 2431 of Title 19, Customs Duties] may be cited as the 'Agricultural Trade Act of 1978'."

IMPLEMENTATION OF 1978 AMENDMENT; REGULATIONS

Section 601 of Pub. L. 95-501 provided that:

"(a) The Secretary of Agriculture shall implement the provisions of this Act [see Short Title of 1978 Amendment note above] as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs.

"(b) The Secretary may issue such regulations as may be necessary to carry out the provisions of this Act."

§ 1762. Personnel

(a) Appointment

To effectuate the carrying out of the purposes of this subchapter, the Secretary of Agriculture is authorized to appoint such personnel as he determines to be necessary and, with the concurrence of the Secretary of State, to assign such personnel to service abroad.

(b) Titles; rank and privileges; appointments of Agricultural Counselors

Officers or employees assigned or appointed to posts abroad under this subchapter shall have the designation of Agricultural Counselor, Agricultural Attaché, or such other titles or designations that shall be agreed to by the Secretary of State and the Secretary of Agriculture, and shall be accorded the same rank and privileges as those of other counselors or attachés in United States embassies. An Agricultural Counselor shall be appointed in any nation—

(1) to which a substantial number of governments with which the United States competes directly for agricultural markets in such nation assign agricultural representatives with the diplomatic status of counselor or its equivalent; or

(2) in which—

(A) the potential is great for long-term expansion of a market for United States agricultural commodities, and

(B) competition with other nations for existing and potential agricultural markets is extremely intense.

Not less than ten Agricultural Counselors shall be appointed within three years after October 21, 1978.

[*See main edition for text of* (c)]

(d) Assignment to United States

Any officer or employee appointed and assigned to a post abroad pursuant to this subchapter may, in the discretion of the Secretary of Agriculture, be assigned for duty in the continental United States, without regard to the civil service laws (and without reduction in grade if an appropriate position at the employee's grade is not available in any agency of the Department of Agriculture), for a period of not more than three years: *Provided*, That the total

number of such employees assigned for duty in the continental United States under this provision shall not exceed fifteen at any one time: *Provided further*, That this Act shall not increase the number of persons employed at grade GS-16, GS-17, or GS-18.

(Aug. 28, 1954, ch. 1041, title VI, § 602(a)-(d), formerly § 602(a)-(c), (e), 68 Stat. 908, 909, amended June 28, 1955, ch. 189, § 12(c)(13), 69 Stat. 182; Aug. 4, 1965, Pub. L. 89-106, § 4, 79 Stat. 431; Oct. 1, 1976, Pub. L. 94-449, 90 Stat. 1500; S. Res. 4, Feb. 4, 1977, renumbered and amended Oct. 21, 1978, Pub. L. 95-501, title III, § 301(4), (5), title IV, § 401(3), (5), 92 Stat. 1688, 1691.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (d), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

This Act, referred to in subsec. (d), is the Agricultural Act of 1954, act Aug. 28, 1954, ch. 1041, 68 Stat. 897. For classification of this Act to the Code, see Short Title note set out under section 1741 of this title and Tables volume.

The number of persons employed at grade GS-16, GS-17, or GS-18, referred to in subsec. (d), is fixed by section 5108 of Title 5.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-501, § 301(4), substituted "this subchapter" for "this chapter".

Subsec. (b). Pub. L. 95-501, § 301(5), added provisions relating to the appointment of Agricultural Counselors and the rank and privileges to be accorded such counselors or other officers or employees assigned abroad.

Subsec. (d). Pub. L. 95-501, §§ 301(4), 401(5), redesignated former subsec. (e) as (d) and, as so redesignated, substituted "this subchapter" for "this chapter". Former subsec. (d) relating to Presidential regulations was redesignated section 606B of act Aug. 28, 1954 by section 401(3) of Pub. L. 95-501 and was classified to section 1766a of this title.

Subsec. (e). Pub. L. 95-501, § 401(5), redesignated former subsec. (e) as (d).

Subsec. (f). Pub. L. 95-501, § 401(3), redesignated former subsec. (f), relating to language training for families of officers and employees assigned abroad, as section 606C of act Aug. 28, 1954, which was classified to section 1766b of this title.

§ 1763. Transferred

CODIFICATION

Section, act Aug. 28, 1954, ch. 1041, title VI, § 603, 68 Stat. 909, was redesignated section 606D of act Aug. 28, 1954, by Pub. L. 95-501, title IV, § 401(3), Oct. 21, 1978, 92 Stat. 1691, and is now classified to section 1766c of this title.

§ 1764. Reports and dispatches

(a) Availability to Department of State and interested government agencies

The reports and dispatches prepared by the officers appointed or assigned under this subchapter shall be made available to the Department of State, and may be made available to other interested agencies of the Government, and the agricultural reports and dispatches and related information produced by officers of the Foreign Service shall be available to the Secretary of Agriculture.

(b) Office space, equipment, and administrative and clerical services

The Secretary of State is authorized upon request of the Secretary of Agriculture to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the personnel affected by this subchapter. The Secretary of Agriculture is authorized to reimburse or advance funds to the Secretary of State for such services.

(c) Agency services, personnel, and facilities

Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to officers and employees appointed and assigned to a post abroad under this subchapter in the performance of the functions of such officers and employees. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

(As amended Oct. 21, 1978, Pub. L. 95-501, title III, § 301(4), (6), 92 Stat. 1688.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-501, § 301(4), substituted "this subchapter" for "this chapter".

Subsec. (b). Pub. L. 95-501, § 301(4), substituted "this subchapter" for "this chapter".

Subsec. (c). Pub. L. 95-501, § 301(6), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1765g of this title.

§ 1765. Foreign service appropriations; applicability

Provisions in annual appropriation Acts of the Department of State facilitating the work of the Foreign Service of the United States shall be applicable under rules and regulations prescribed by the President or his designee to activities pursuant to this subchapter.

(As amended Oct. 21, 1978, Pub. L. 95-501, title III, § 301(4), 92 Stat. 1688.)

AMENDMENTS

1978—Pub. L. 95-501 substituted "this subchapter" for "this chapter".

SUBCHAPTER II—UNITED STATES AGRICULTURAL TRADE OFFICES [NEW]

§ 1765a. Agricultural Trade Offices

(a) Establishment

For the purpose of developing, maintaining, and expanding international markets for United States agricultural commodities, the Secretary of Agriculture, after consultation with the Secretary of State, shall establish not less than six nor more than twenty-five United States Agricultural Trade Offices in other nations.

(b) Administration

each[1] United States Agricultural Trade Office shall be directed and administered by an Agricultural Trade Officer who by reason of training, experience, and attainments is qualified to

[1] So in original. Probably should be "Each".

carry out the purposes of this subchapter. Such Officer shall be appointed by the Secretary of Agriculture.

(c) Appointment and compensation of officers

Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no Agricultural Trade Officer (1) may be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS–17 of the General Schedule under section 5332 of such title, or (2) may be paid at a rate in excess of the highest rate paid to an Agricultural Counselor or Attaché, as the case may be, who is appointed under subchapter I of this chapter to the nation in which such Officer is to serve.

(d) Transmittal of information

Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attaché or other senior representative of the Secretary of Agriculture in each nation in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of the United States diplomatic mission fully and currently informed with respect to all activities and operations of such Office.

(e) Office functions and activities

Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

(f) Personnel; employment of local nationals

To carry out the functions of United States Agricultural Trade Offices, the Secretary of Agriculture may appoint such other personnel as the Secretary determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

(g) Conflicts of interest

No employee of any United States Agricultural Trade Office may engage in any business, vocation, or other employment, or have other interests, that are inconsistent with official responsibilities.

(h) Diplomatic privileges and immunities

Upon the request of the Secretary of Agriculture, the Secretary of State shall request for Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(Aug. 28, 1954, ch. 1041, title VI, § 605A, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(1), 92 Stat. 1688.)

REFERENCES IN TEXT

The provisions of Title 5 governing appointments in the competitive service, referred to in subsec. (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 1765b. Functions

The functions of each United States Agricultural Trade Office shall be to—

(1) increase the effectiveness of agricultural export promotion efforts through consolidation of activities, providing services and facilities for foreign buyers and United States trade representatives, and coordination of market development activities sponsored by the Department of Agriculture;

(2) establish goals by nation or region and agricultural commodity for developing, expanding, and maintaining markets for United States agricultural commodities;

(3) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

(4) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market development activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports;

(5) develop and maintain a current listing of trade, government, and other appropriate organizations for each agricultural commodity area and make such listing available to persons with a bona fide interest in exporting or importing United States agricultural commodities;

(6) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

(7) provide practical assistance for the use of the programs under the Agricultural Trade Development and Assistance Act of 1954 [7 U.S.C. 1691 et seq.], the export credit sales program, the export incentives program, and related programs of the United States Government where use of such programs will serve as a market development tool for United States agriculture;

(8) supervise project agreements with United States cooperators, coordinate the activities of the United States Agricultural Trade Office with those of the cooperators, and submit annual recommendations to the Secretary of Agriculture on the efficacy of cooperator programs;

(9) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means; and

(10) perform such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, determines to be necessary and proper for achieving the purposes of this subchapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605B, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(1), 92 Stat. 1689.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, as amended, referred to in par. (7), is act

July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified principally to chapter 41 (§ 1691 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1765c of this title.

§ 1765b–1. Annual report on export promotion

The Secretary of Agriculture shall submit to Congress each year a report providing a comprehensive statement of the activities and accomplishments of the Department of Agriculture, including specifically those of the United States Agricultural Trade Offices, in developing, maintaining, and expanding foreign markets for United States agricultural commodities.

(Pub. L. 95–501, title VI, § 602, Oct. 21, 1978, 92 Stat. 1691.)

CODIFICATION

Section was enacted as part of the Agricultural Trade Act of 1978, and not as part of the Agricultural Act of 1954 which is classified, in part, to this chapter.

§ 1765c. Performance of functions in foreign localities

Each United States Agricultural Trade Office shall carry out its functions under section 1765b of this title in the nation where the United States Agricultural Trade Office is located and in such other nations as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subchapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605C, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(1), 92 Stat. 1690.)

§ 1765d. Acquisition of property

Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926 [22 U.S.C. 292 et seq.], to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

(Aug. 28, 1954, ch. 1041, title VI, § 605D, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(1), 92 Stat. 1690.)

REFERENCES IN TEXT

The Foreign Service Buildings Act, 1926, as amended, referred to in text, is act May 7, 1926, ch. 250, 44 Stat. 403, as amended, which is classified generally to chapter 8 (§ 292 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see section 299 of Title 22 and Tables.

§ 1765e. Location of offices

United States Agricultural Trade Offices shall be centrally located in the cities of assignment to facilitate foreign trade meetings and foreign trade reliance on such offices for assistance in marketing activities.

(Aug. 28, 1954, ch. 1041, title VI, § 605E, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(1), 92 Stat. 1690.)

§ 1765f. Availability of agency services, personnel, and facilities

Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities so made available.

(Aug. 28, 1954, ch. 1041, title VI, § 605F, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(1), 92 Stat. 1690.)

§ 1765g. Availability of reports and dispatches

The provisions of section 1764(a) of this title shall apply with respect to personnel appointed and assigned under this subchapter.

(Aug. 28, 1954, ch. 1041, title VI, § 605G, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(1), 92 Stat. 1690.)

SUBCHAPTER III—REPRESENTATION ALLOWANCES, REGULATIONS, GENERAL PROVISIONS, AND AUTHORIZATION FOR APPROPRIATIONS [NEW]

§ 1765h. Representation allowance

Any Agricultural Trade Officer and the senior representative of the Secretary of Agriculture assigned to a nation under subchapter I of this chapter may, under regulations prescribed by the Secretary of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer or senior representative can effectively use such funds to further the purposes of this chapter, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the nation where such Agricultural Trade Officer or senior representative is assigned.

(Aug. 28, 1954, ch. 1041, title VI, § 606, as added Oct. 21, 1978, Pub. L. 95–501, title IV, § 401(2), 92 Stat. 1690.)

§ 1766. Rules and regulations; advance payment for rent and other services; funds for courtesies to foreign representatives

CODIFICATION

Section 606 of act Aug. 28, 1954, ch. 1041, title VI, 68 Stat. 909, was redesignated section 606A by Pub. L. 95–501, title IV, § 401(2), Oct. 21, 1978, 92 Stat. 1690.

§ 1766a. Presidential regulations

The President shall prescribe regulations to insure that the official activities of persons assigned abroad under this chapter are carried on (1) consonant with United States foreign policy objectives as defined by the Secretary of State; (2) in accordance with instructions of the Secretary of Agriculture with respect to agricultural matters; and (3) in coordination with other representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission.

(Aug. 28, 1954, ch. 1041, title VI, § 606B, formerly § 602(d), 68 Stat. 909, renumbered Oct. 21, 1978, Pub. L. 95-501, title IV, § 401(3), 92 Stat. 1691.)

CODIFICATION

Provisions comprising this section were formerly classified to section 1762(d) of this title prior to redesignation by section 401(3) of Pub. L. 95-501.

§ 1766b. Language training for families of officers and employees assigned abroad

Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this chapter or other authority: *Provided*, That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended [7 U.S.C. 1701 et seq.], to carry out the purposes of this section in the foreign nations to which such officers, employees, and families are assigned. There are hereby authorized to be appropriated such sums, not to exceed $50,000 annually, as may be necessary to carry out the purposes of this section: *Provided*, That for the fiscal year ending September 30, 1977, any appropriations available to the Secretary of Agriculture (not to exceed $50,000) may be used to carry out the purposes of this section. The Secretary of Agriculture shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under the authority of this section during such fiscal year.

(Aug. 28, 1954, ch. 1041, title VI, § 606C, formerly § 602(f), as added Oct. 1, 1976, Pub. L. 94-449, 90 Stat. 1500, amended S. Res. 4, Feb. 4, 1977, and renumbered and amended Oct. 21, 1978, Pub. L. 95-501, title IV, § 401(3), (4), 92 Stat. 1691.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, as amended, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, as amended, which is classified generally to chapter 41 (§ 1691 et seq.) of this title. Title I of the Act is classified to subchapter II (§ 1701 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

CODIFICATION

Provisions comprising this section were formerly classified to section 1762(f) of this title prior to redesignation by section 401(3) of Pub. L. 95-501.

AMENDMENTS

1978—Pub. L. 95-501, § 401(4), substituted "this section" for "this subsection" in four places. See Codification note above.

CHANGE OF NAME

The Committee on Agriculture and Forestry of the Senate was abolished and replaced by the Committee on Agriculture, Nutrition, and Forestry of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

§ 1766c. Allowances and benefits

The Secretary of Agriculture may, under such rules and regulations as may be prescribed by the President or his designee, provide to personnel appointed or assigned by the Secretary of Agriculture under this chapter or other authority allowance and benefits similar to those provided by title IX of the Foreign Service Act of 1946 [22 U.S.C. 1131 et seq.]. Leaves of absence for personnel under this chapter shall be on the same basis as is provided for the Foreign Service of the United States by subchapter I of chapter 63 of title 5.

(Aug. 28, 1954, ch. 1041, title VI, § 606D, formerly § 603, 68 Stat. 909, renumbered Oct. 21, 1978, Pub. L. 95-501, title IV, § 401(3), 92 Stat. 1691.)

REFERENCES IN TEXT

Title IX of the Foreign Service Act of 1946, as amended, referred to in text, is title IX of act Aug. 13, 1946, ch. 957, 60 Stat. 1025, as amended, which is classified generally to subchapter IX (§ 1131 et seq.) of chapter 14 of Title 22, Foreign Relations and Intercourse. For complete classification of this act to the Code, see Short Title note set out under section 801 of Title 22 and Tables.

CODIFICATION

"Subchapter I of chapter 63 of title 5" was substituted for "the Annual and Sick Leave Act of 1951" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 1763 of this title.

§ 1769. Definition

The term "agricultural commodity" as used in this chapter includes any agricultural commodity or product thereof.

(Aug. 28, 1954, ch. 1041, title VI, § 609, as added Oct. 21, 1978, Pub. L. 95-501, title IV, § 401(6), 92 Stat. 1691.)

CHAPTER 44—WOOL PROGRAM

§ 1781. Congressional declaration of policy

It is recognized that wool is an essential, strategic, and energy-efficient commodity which is not produced in the United States in sufficient quantities and grades to meet the domestic needs; and that the desired domestic production of wool is impaired by predatory animals and by the depressing effects of wide fluctuations in the price of wool in the world markets. It is declared to be the policy of Congress, as a measure of national security and to promote the general economic welfare, a positive balance of trade, and the efficient use of the Nation's resources, to encourage the continued domestic production of wool at prices fair to both producers and consumers in a manner

which will assure a viable domestic wool industry in the future.

(As amended Sept. 29, 1977, Pub. L. 95-113, title III, § 301, 91 Stat. 921.)

AMENDMENTS

1977—Pub. L. 95-113 added references to wool as an energy-efficient commodity, the impairment of domestic wool production by predatory animals, promotion of a positive balance of trade, and the efficient use of the Nation's resources, substituted references to wool production in a manner which will assure a viable domestic wool industry in the future for references to wool production in a manner which will have the least adverse effects upon foreign trade, and struck out reference to an annual domestic production of approximately three hundred million pounds of shorn wool, grease basis.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1782. Price supports; time limitation

(a) The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the prices of wool and mohair, respectively, to the producers thereof by means of loans, purchases, payments, or other operations. Such price support shall be limited to wool and mohair marketed during the period beginning April 1, 1955, and ending December 31, 1981.

(b) The support price for shorn wool for the 1966 and each subsequent marketing year shall be determined by multiplying 62 cents by the ratio of (i) the average of the parity index (the index of prices paid by farmers, including commodities, and services, interest, taxes, and farm wage rates, as defined in section 1301(a)(1)(C) of this title) for the three calendar years immediately preceding the calendar year in which such price support is determined and announced to (ii) the average parity index for the three calendar years 1958, 1959, and 1960, and rounding the resulting amount to the nearest full cent: *Provided*, That for the marketing years beginning January 1, 1971, and ending December 31, 1976, the support price for shorn wool shall be 72 cents per pound, grease basis: *Provided further*, That for the marketing years beginning January 1, 1977, and ending December 31, 1981, the support price for shorn wool shall be 85 per centum (rounded to the nearest full cent) of the amount calculated according to the foregoing formula.

(c) The support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary determines will maintain normal marketing practices for pulled wool, and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The deviation of mohair support prices shall not be calculated so as to cause it to rise or fall more than 15 per centum above or below the comparable percentage of parity at which shorn wool is supported: *Provided*, That for the marketing years beginning January 1, 1971, and ending December 31, 1976, the support price for mohair shall be 80.2 cents per pound, grease basis.

[*See main edition for text of (d) and (e)*]

(As amended Sept. 29, 1977, Pub. L. 95-113, title III, § 302, 91 Stat. 921.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 302(1), substituted "December 31, 1981" for "December 31, 1977".

Subsec. (b). Pub. L. 95-113, § 302(2), (3), substituted "December 31, 1976" for "December 31, 1977" and added proviso that, for the marketing years beginning Jan. 1, 1977, and ending Dec. 31, 1981, the support price for shorn wool shall be 85 per centum (rounded to the nearest full cent) of the amount calculated according to the foregoing formula.

Subsec. (c). Pub. L. 95-113, § 302(4), substituted "December 31, 1976" for "December 31, 1977".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 46—SURPLUS DISPOSAL OF AGRICULTURAL COMMODITIES

§ 1854. Agreements limiting imports

The President may, whenever he determines such action appropriate, negotiate with representatives of foreign governments in an effort to obtain agreements limiting the export from such countries and the importation into the United States of any agricultural commodity or product manufactured therefrom or textiles or textile products, and the President is authorized to issue regulations governing the entry or withdrawal from warehouse of any such commodity, product, textiles, or textile products to carry out any such agreement. In addition, if a multilateral agreement has been or shall be concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such an agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement. Nothing herein shall affect the authority provided under section 624 of this title.

(May 28, 1956, ch. 327, title II, § 204, 70 Stat. 200; June 19, 1962, Pub. L. 87-488, 76 Stat. 104.)

CODIFICATION

This section is set out in this supplement to correct a typographical error appearing in the main edition.

CHAPTER 48—HUMANE METHODS OF LIVESTOCK SLAUGHTER

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 21 sections 603, 610, 620.

§ 1901. Findings and declaration of policy

SHORT TITLE OF 1978 AMENDMENT

For citation of Pub. L. 95-445, Oct. 10, 1978, 92 Stat. 1069, as the "Humane Methods of Slaughter Act of

1978", see Short Title of 1978 Amendment note set out under section 601 of Title 21, Food and Drugs.

§ 1902. Humane methods

No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane. Either of the following two methods of slaughtering and handling are hereby found to be humane:

[*See main edition for text of* (a)]

(b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribed a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

(As amended Pub. L. 95–445, § 5(a), Oct. 10, 1978, 92 Stat. 1069.)

AMENDMENTS

1978—Par. (b). Pub. L. 95–445 inserted "and handling in connection with such slaughtering" at the end.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–445 effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as an Effective Date of 1978 Amendment note under section 603 of Title 21, Food and Drugs.

§ 1903. Repealed. Pub. L. 95–445, § 5(b), Oct. 10, 1978, 92 Stat. 1069

Section, Pub. L. 85–765, § 3, Aug. 27, 1958, 72 Stat. 862, related to limitations on Government procurement and price support, modifications during national emergency, and statements of eligibility.

EFFECTIVE DATE OF REPEAL

Repeal effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as an Effective Date of 1978 Amendment note under section 603 of Title 21, Food and Drugs.

§ 1904. Methods research; designation of methods

In furtherance of the policy expressed herein the Secretary is authorized and directed—

(a) to conduct, assist, and foster research, investigation, and experimentation to develop and determine methods of slaughter and the handling of livestock in connection with slaughter which are practicable with reference to the speed and scope of slaughtering operations and humane with reference to other existing methods and then current scientific knowledge; and

(b) on or before March 1, 1959, and at such times thereafter as he deems advisable, to designate methods of slaughter and of handling in connection with slaughter which, with respect to each species of livestock, conform to the policy stated in this chapter. If he deems it more effective, the Secretary may make any such designation by designating methods which are not in conformity with such policy. Designations by the Secretary subsequent to March 1, 1959, shall become effective 180 days after their publication in the Federal Register.

(As amended Pub. L. 95–445, § 5 (b)–(e), Oct. 10, 1978, 92 Stat. 1069.)

AMENDMENTS

1978—Par. (a). Pub. L. 95–445, § 5(d), inserted "and" after the semicolon at the end thereof.

Par. (b). Pub. L. 95–445, § 5(c), (e), struck out "for purposes of section 1903 of this title" preceding "180 days", and substituting a period for the semicolon at the end thereof.

Par. (c). Pub. L. 95–445, § 5(b), repealed par. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–445 effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as an Effective Date of 1978 Amendment note under section 603 of Title 21, Food and Drugs.

§ 1905. Repealed. Pub. L. 95–445, § 5(b), Oct. 10, 1978, 92 Stat. 1069

Section, Pub. L. 85–765, § 5, Aug. 27, 1958, 72 Stat. 863, related to establishment, composition, functions, compensation, meetings, and reports of advisory committees.

EFFECTIVE DATE OF REPEAL

Repeal effective one year after Oct. 10, 1978, and nonapplicability during not to exceed additional 18 months in hardship cases, see sec. 7 of Pub. L. 95–445 set out as an Effective Date of 1978 Amendment note under section 603 of Title 21, Food and Drugs.

CHAPTER 50—AGRICULTURAL CREDIT

SUBCHAPTER I—REAL ESTATE LOANS

Sec.
1929b. Purchase of guaranteed portions of loans; terms and conditions; exercise of authorities [New].
1934. Low-income farm ownership loan program; eligibility; repayment requirements [New].

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

1981a. Loan moratorium and policy on foreclosures [New].
1994. Maximum aggregate principal amounts for loans authorized [New].
1995. Participation and financial and technical assistance by other Federal departments, etc. to program participants [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 940 of this title; title 12 section 371; title 15 section 636; title 40 App. sections 204, 214; title 42 sections 2985c, 3188a.

§ 1921. Congressional findings

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–334, § 1, Aug. 4, 1978, 92 Stat. 420, provided: "That this Act [enacting sections 1929b, 1934, 1981a, 1994, and 1995 of this title and sections 2201 to 2205 of Title 16, Conservation, amending sections 1309, 1922, 1924 to 1927, 1929, 1929a, 1932, 1941 to 1943, 1946, 1961, 1964, 1968, 1981, 1983, 1991, and 2908 of this title, repealing section 1965 of this title, and enacting provisions set out as notes under this section and sections 1309, 1926, preceding 1961, and 1964 of this title and section 2201 of Title 16] may be cited as the 'Agricultural Credit Act of 1978'."

USE OF QUALIFIED PERSONNEL BY THE DEPARTMENT OF AGRICULTURE

Pub. L. 95-334, title I, § 126, Aug. 4, 1978, 92 Stat. 429, provided that:

"It is the sense of Congress that, in carrying out the provisions of the Consolidated Farm and Rural Development Act [see Short Title note set out under the section in the main edition], the Secretary of Agriculture should ensure that—

"(1) only officers and employees of the Department of Agriculture who are adequately prepared to understand the particular needs and problems of farmers in an area are assigned to such area; and

"(2) a high priority is placed on keeping existing farm operations operating."

SUBCHAPTER I—REAL ESTATE LOANS

§ 1922. Persons eligible for loans

The Secretary is authorized to make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, and partnerships, members, stockholders, or partners, as applicable, holding a majority interest in such entity, must (1) be citizens of the United States, (2) have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) be or will become owner-operators of not larger than family farms (or in the case of cooperatives, corporations, and partnerships in which a majority interest is held by members, stockholders, or partners, as applicable, who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this section, in the case of cooperatives, corporations, and partnerships, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an ownership and operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity.

(As amended Pub. L. 95-334, title I, § 101, Aug. 4, 1978, 92 Stat. 420.)

AMENDMENTS

1978—Pub. L. 95-334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1924, 1925, 1934, 1983 of this title.

§ 1923. Purposes of loans

(a) Preferences

Loans may be made or insured under this subchapter for (1) acquiring, enlarging, or improving farms, including farm buildings, land and water development, use and conservation, (2) recreational uses and facilities, (3) enterprises needed to supplement farm income, (4) refinancing existing indebtedness, and (5) loan closing costs. In making or insuring loans for farm purchase, the Secretary shall give preference to persons who are married or have dependent families and, wherever practicable, to persons who are able to make initial downpayments, or who are owners of livestock and farm implements necessary successfully to carry on farming operations.

(b) Definitions

For purposes of this subchapter—

(1) the term "improving farms" includes, but is not limited to, the acquisition and installation of any qualified non-fossil energy system in any residential structure located on a family farm; and

(2) the term "qualified non-fossil energy system" means any system that utilizes technologies to generate fuel, energy, or energy intensive products from products other than fossil fuels as included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.], which meets such standards as may be prescribed by the Secretary, taking into consideration appropriate and available standards prescribed by the Secretary of Housing and Urban Development.

(As amended Pub. L. 95-113, title XIV, § 1448(a), Sept. 29, 1977, 91 Stat. 1011.)

REFERENCES IN TEXT

The Federal Non-Nuclear Research and Development Act of 1974, as amended, referred to in subsec. (b)(2), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1934 of this title.

§ 1924. Additional purposes of loans

(a) Soil and water conservation, and recreational facilities and uses financing

Loans may also be made or insured under this subchapter to any farmowners or tenants without regard to the requirements of section 1922(1), (2), and (3) of this title for the purposes only of land and water development, use and conservation, not including recreational uses and facilities, and without regard to the requirements of section 1922(2) and (3) of this title, to farmowners or tenants to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter.

(b) Rural enterprise financing

Loans may also be made or insured under this subchapter to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 1922 of this title to acquire or establish in rural areas small business enterprises to provide such residents with essential income.

(c) Waste pollution abatement facilities financing

Loans may also be made or insured under this subchapter to any farm owners or tenants without regard to the requirements of clauses (1), (2), and (3) of section 1922 of this title for the purposes of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including the construction, modification, or relocation of farm or other structures necessary to comply with such pollution abatement requirements.

(As amended Pub. L. 95-334, title I, § 102, Aug. 4, 1978, 92 Stat. 421.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-334, § 102(1), struck out "individual" following "title, to".

Subsec. (c). Pub. L. 95-334, § 102(2), added subsec. (c).

§ 1925. Limitation on amount of loan

The Secretary shall make or insure no loan under sections 1922, 1923, 1924, and 1934 of this title that would cause the unpaid indebtedness under such sections of any one borrower to exceed the smaller of (1) the value of the farm or other security, or (2) in the case of a loan other than a loan guaranteed by the Secretary, $200,000, or, in the case of a loan guaranteed by the Secretary, $300,000. In determining the value of the farm, the Secretary shall consider appraisals made by competent appraisers under rules established by the Secretary.

(As amended Pub. L. 95-334, title I, § 103, Aug. 4, 1978, 92 Stat. 421.)

AMENDMENTS

1978—Pub. L. 95-334 substituted provisions setting forth requirements for loans under sections 1922, 1923, 1924, and 1934 of this title for provisions setting forth requirements for loans under sections 1922, 1923, and 1924 of this title.

§ 1926. Water and waste facility loans and grants

(a) Criteria; definitions; limitation on allowable uses of Federal funds; inclusion of interest or other income in gross income on sale of insured loan

(1) The Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, recreational developments, and essential community facilities including necessary related equipment, all primarily serving farmers, ranchers, farm tenants, farm laborers, and other rural residents, and to furnish financial assistance or other aid in planning projects for such purposes. When any loan made for a purpose specified in this paragraph is sold out of the Agricultural Credit Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 [26 U.S.C. 1 et seq.]. With respect to loans of less than $500,000 made or insured under this paragraph that are evidenced by notes and mortgages, as distinguished from bond issues, borrowers shall not be required to appoint bond counsel to review the legal validity of the loan whenever the Secretary has available legal counsel to perform such review.

(2) The Secretary is authorized to make grants aggregating not to exceed $500,000,000 in any fiscal year to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas. The amount of any grant made under the authority of this paragraph shall not exceed 75 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area.

[*See main edition for text of (3) to (6)*]

(7) As used in this chapter, the terms "rural" and "rural area" shall not include any area in any city or town which has a population in excess of ten thousand inhabitants, except that for purposes of loans and grants for private business enterprises under sections 1924(b), 1932 and 1942 (b), (c), and (d) of this title the terms "rural" and "rural area" may include all territory of a State that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided*, That special consideration for such loans and grants shall be given to areas other than cities having a population of more than twenty-five thousand.

[See main edition for text of (8) to (13)]

(14)(A) The Secretary may make or insure loans in the full amount thereof, but not to exceed $1,000,000 for any such loan, to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies, for the purpose of financing the construction, acquisition, and operation of transmission facilities for any electric system that is owned and operated by a public body located in a rural area and as of October 1, 1976, was receiving bulk power from any of the following agencies of the Department of the Interior:

(i) the Southwestern Power Administration,
(ii) the Southeastern Power Administration,
(iii) the Bonneville Power Administration,
(iv) the Bureau of Reclamation, or
(v) the Alaska Power Administration.

A loan may not be made or insured under this paragraph unless the Secretary determines that the applicant for the loan cannot obtain sufficient credit elsewhere from reliable sources at reasonable rates and terms for financing the construction, acquisition, and operation of such facilities.

(B) Interest or other income from obligations evidencing loans guaranteed under this paragraph shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954 [26 U.S.C. 1 et seq.].

(C) The Administrator of the Rural Electrification Administration shall administer loans made or insured under this paragraph.

(D) The authority provided to the Secretary by subparagraph (A) of this paragraph shall terminate September 30, 2006.

[See main edition for text of (b) to (d)]

(As amended Pub. L. 95-334, title I, §§ 104-107(a), Aug. 4, 1978, 92 Stat. 421, 422.)

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-334, § 104, added provisions respecting bond counsel requirements for loans under $500,000.

Subsec. (a)(2). Pub. L. 95-334, § 105, substituted "$500,000,000" for "$300,000,000" and "75" for "50".

Subsec. (a)(7). Pub. L. 95-334, § 106, struck out references to the Commonwealth of Puerto Rico and the Virgin Islands.

Subsec. (a)(14). Pub. L. 95-334, § 107(a), added subsec. (a)(14).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 105 of Pub. L. 95-334 provided in part that the amendment to subsec. (a)(2) of this section by Pub. L. 95-334 is effective Oct. 1, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1927, 1929, 1929a, 1931, 1983, 1992 of this title; title 16 section 2106; title 42 sections 3122, 3914, 4519, 5153.

§ 1927. Repayment requirements

(a) Period of repayment; interest rates

(1) The period for repayment of loans under this subchapter shall not exceed forty years.

(2) Except as otherwise provided in paragraphs (3), (4), and (5) of this subsection, the interest rates on loans under this subchapter shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(3) The interest rates on loans (other than guaranteed loans) under section 1934 of this title, and loans (other than guaranteed loans) to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be as determined by the Secretary, but not in excess of 5 per centum per annum.

(4) The interest rates on loans under sections 1924(b), 1926(a)(1), and 1932 of this title (other than guaranteed loans and loans as described in paragraph (3) of this subsection) shall be as determined by the Secretary, but not less than such rates as determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for rates comparable to the rates prevailing in the private market for similar loans and considering the Secretary's insurance of the loans, plus an additional charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund, and further adjusted to the nearest one-eighth of 1 per centum.

(5) The interest rate on any loan made under this subchapter as a guaranteed loan shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.

(b) Payment of charges; prepayment of taxes and insurance

The borrower shall pay such fees and other charges as the Secretary may require, and borrowers under this chapter shall prepay to the Secretary such taxes and insurance as the Secretary may require, on such terms and conditions as the Secretary may prescribe.

(c) Mortgages, liens, and other security

The Secretary shall take as security for the obligations entered into in connection with loans, mortgages on farms with respect to which such loans are made or such other security as the Secretary may require, and for obligations in connection with loans to associations under section 1926 of this title, shall take liens on the facility or such other security as he may determine to be necessary. Such security instruments may constitute liens running to the United States notwithstanding the fact that the notes may be held by lenders other than the United States.

(As amended Pub. L. 95-334, title I, § 108, Aug. 4, 1978, 92 Stat. 422.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-334, § 108(1), substituted provisions relating to determination of interest rates on loans, except as provided in pars. (3) to (5), as not in excess of the current average market yield on outstanding marketable obligations of the United States, with comparable remaining periods of maturity to the average maturities of such loans plus additional adjusted amounts, for provisions relating to establishment of interest rates on loans, except as specifically provided, but not in excess of 5 per centum per annum.

Subsec. (b). Pub. L. 95-334, § 108(2), (3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-334, § 108(2), redesignated former subsec. (b) as (c).

§ 1929. Agricultural Credit Insurance Fund

[*See main edition for text of (a) to (e)*]

(f) Utilization of fund

The Secretary may utilize the fund—

(1) to make loans which could be insured under this subchapter whenever the Secretary has reasonable assurance that they can be sold without undue delay, and may sell and insure such loans;

[*See main edition for text of (2)*]

(3) to pay to the holder of the notes any deferred or defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(4) to purchase notes in accordance with agreements previously entered into;

(5) to pay for contract services, taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections and other expenses and advances authorized in connection with insured loans, including the difference between interest payable by borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance;

(6) to pay the Secretary's costs of administration necessary to insure, make grants, service, and otherwise carry out the programs under this chapter not specifically covered by the Rural Development Insurance Fund of section 1929a of this title, including costs of the Secretary incidental to guaranteeing loans under this chapter, either directly from the Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.

[*See main edition for text of (g) and (h)*]

(As amended Pub. L. 95-113, title XV, § 1510(a), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 95-334, title I, § 109(a), Aug. 4, 1978, 92 Stat. 423.)

AMENDMENTS

1978—Subsec. (f). Pub. L. 95-334 in par. (1) struck out provisions limiting amount of loans outstanding at any one time and added par. (6).

1977—Subsec. (f)(3). Pub. L. 95-113 substituted "any deferred or defaulted installment" for "any defaulted installment".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1929a. Rural Development Insurance Fund

(a) Creation; revolving fund; rural development loans

There is hereby created the Rural Development Insurance Fund (hereinafter in this section referred to as the "Insurance Fund") which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing or insuring rural development loans. For the purpose of this section "rural development loans" shall be those provided for by sections 1924(b), 1926(a)(1), 1926(a)(14), 1932, and 1942(b) of this title, except loans (other than for water systems and waste disposal facilities) of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972.

[*See main edition for text of (b) to (f)*]

(g) Use of Insurance Fund

The Secretary may utilize the Insurance Fund—

[*See main edition for text of (1) and (2)*]

(3) to pay to the holder of insured notes any deferred or defaulted installment, or upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

[*See main edition for text of (4) to (7)*]

(8) to pay the Secretary's costs of administration necessary to insure loans under the programs referred to in subsection (a) of this section, make grants under sections 1926(a) and 1932 of this title, service, and otherwise carry out such programs, including costs of the Secretary incidental to guaranteeing rural development loans under this chapter, either directly from the Insurance Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.

[*See main edition for text of (h)*]

(As amended Pub. L. 95-113, title XV, § 1510(b), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 95-334, title I, §§ 107(b), 110, Aug. 4, 1978, 92 Stat. 422, 424.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-334, § 107(b), added reference to section 1926(a)(14) of this title.

Subsec. (g)(8). Pub. L. 95-334, § 110, substituted provisions relating to payment of costs of administration necessary to insure loans under subsec. (a) of this section, make grants under sections 1926(a) and 1932 of this title, and otherwise carry out such programs for provisions relating to payment of costs of administration of the rural loan development program.

1977—Subsec. (g)(3). Pub. L. 95-113 substituted "any deferred or defaulted installment" for "any defaulted installment".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1929, 1929b of this title.

§ 1929b. Purchase of guaranteed portions of loans; terms and conditions; exercise of authorities

The Secretary may purchase, on such terms and conditions as the Secretary deems appropriate, the guaranteed portion of any loan guaranteed under this chapter: *Provided*, That the Secretary may not pay for any such guaranteed portion of a loan in excess of an amount equal to the unpaid principal balance and accrued interest on the guaranteed portion of the loan. The Secretary may use for such purchases funds from the Rural Development Insurance Fund with respect to rural development loans as defined in section 1929a(a) of this title and funds from the Agricultural Credit Insurance Fund with respect to all other loans under this chapter. This authority may be exercised only if the Secretary determines that an adequate secondary market is not available in the private sector.

(Pub. L. 87-128, title III, § 309B, as added Pub. L. 95-334, title I, § 111, Aug. 4, 1978, 92 Stat. 424.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title.

§ 1932. Rural industrialization assistance

(a) Loans for private business enterprises; pollution abatement and control; aquaculture; loan guarantees

The Secretary may also make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to individuals for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control, and the conservation, development, and utilization of water for aquaculture purposes. Such loans, when originated, held, and serviced by other lenders, may be guaranteed by the Secretary under this section without regard to subsections (a) and (c) of section 1983 of this title. As used in this subsection, the term "aquaculture" means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of creating or augmenting publicly owned and regulated stocks of fish.

[*See main edition for text of* (b) *and* (c)]

(d) Joint loans or grants for private business enterprises; restrictions; system of certification for expeditious processing of requests for assistance; prior approval of grant or loan; equity investment as condition for loan commitment; issuance of certificates of beneficial ownership of notes

The Secretary may participate in joint financing to facilitate development of private business enterprises in rural areas with the Economic Development Administration, the Small Business Administration, and the Department of Housing and Urban Development and other Federal and State agencies and with private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) of this section for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas or through joint grants to applicants eligible under subsection (c) of this section for such purposes, including in the case of loans or grants the development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refining, service and fees.

(1) No financial or other assistance shall be extended under any provision of this section and sections 1924(b) and 1942(b) of this title, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant, but this limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) No financial or other assistance shall be extended under any provision of this section and sections 1924(b) and 1942(b) of this title, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, which is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(3) No financial or other assistance shall be extended under any provision of this section and sections 1924(b) and 1942(b) of this title, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, if the Secretary of Labor certifies within 30 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of paragraphs (1) and (2) of this subsection have not been complied with. The Secretary of Labor shall, in cooperation with the Secretary of Agriculture, develop a system of certification which will insure the expeditious processing of requests for assistance under this section.

[See main edition for text of (4) to (6)]

(As amended Pub. L. 95–113, title XV, § 1503(b), Sept. 29, 1977, 91 Stat. 1021; Pub. L. 95–334, title I, § 112, Aug. 4, 1978, 92 Stat. 424.)

AMENDMENTS

1978—Subsec. (d)(1), (2). Pub. L. 95–334, § 112(1), added exception for assistance less than $1,000,000, or where direct employment will not be increased by more than 50 employees.

Subsec. (d)(3). Pub. L. 95–334, § 112, added exception for assistance less than $1,000,000, or where direct employment will not be increased by more than 50 employees and substituted "30" for "60".

1977—Subsec. (a). Pub. L. 95–113 added reference to the conservation, development, and utilization of water for aquaculture purposes and added a definition of "aquaculture".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1934. Low-income farm ownership loan program; eligibility; repayment requirements

(a) The Secretary is authorized to make and insure loans for any of the purposes referred to in clauses (1) through (5) of section 1923(a) of this title to farmers and ranchers in the United States who (1) are citizens of the United States, (2) meet the requirements of clauses (2) through (4) of section 1922 of this title, (3) are unable to obtain sufficient credit under section 1922 of this title to finance their actual needs, (4) are owners or operators of small or family farms (including new owners or operators), (5) are farmers or ranchers with a low income, and (6) demonstrate a need to maximize their income from farming or ranching operations. The Secretary is also authorized to make such loans to any farm cooperative or private domestic corporation or partnership that is controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States if all of its members, stockholders, or partners, as applicable, are citizens of the United States and the entity and all such members, stockholders, or partners meet the requirements of clauses (2) through (6) of the preceding sentence.

(b) Each loan made or insured under this section shall be repayable in such installments as the Secretary determines will provide for reduced payments during the initial repayment period of the loan and larger payments during the remainder of the repayment period of the loan.

(Pub. L. 87–128, title III, § 310D, as added Pub. L. 95–334, title I, § 113, Aug. 4, 1978, 92 Stat. 424.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1925, 1927, 1983 of this title.

SUBCHAPTER II—OPERATING LOANS

§ 1941. Persons eligible for loans

(a) The Secretary is authorized to make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, and partnerships, members, stockholders, or partners, as applicable, holding a majority interest in such entity, must (1) be citizens of the United States, (2) have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) be or will become operators of not larger than family farms (or in the case of cooperatives, corporations, and partnerships in which a majority interest is held by members, stockholders, or partners, as applicable, who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this subsection, in the case of cooperatives, corporations, and partnerships, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity.

[See main edition for text of (b)]

(As amended Pub. L. 95–334, title I, § 114, Aug. 4, 1978, 92 Stat. 425.)

AMENDMENTS

1978—Pub. L. 95–334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility

criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

§ 1942. Purposes of loans; grants for pollution abatement and control projects, limitations

(a) Loans may be made under this subchapter for (1) paying costs incident to reorganizing the farming system for more profitable operation, (2) purchasing livestock, poultry, and farm equipment (including equipment which utilizes solar energy), (3) purchasing feed, seed, fertilizer, insecticides, and farm supplies and to meet other essential farm operating expenses including cash rent, (4) financing land and water development, use, and conservation, (5) without regard to the requirements of section 1941(a)(2) and (3) of this title, to farmers or ranchers to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter, (6) enterprises needed to supplement farm income, (7) refinancing existing indebtedness, (8) other farm and home needs including but not limited to family subsistence, (9) loan closing costs, and (10) for assisting farmers or ranchers in effecting additions to or alterations in the equipment, facilities, or methods of operation of their farms or ranches in order to comply with the applicable standards promulgated pursuant to section 655 of title 29 or standards adopted by a State pursuant to a plan approved under section 667 of title 29, if the Secretary determines that any such farmer or rancher is likely to suffer substantial economic injury due to such compliance without assistance under this paragraph. For the purposes of this subchapter, the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

[See main edition for text of (b) to (d)]

(As amended Pub. L. 95-113, title XIV, § 1448(b), Sept. 29, 1977, 91 Stat. 1012; Pub. L. 95-334, title I, § 115, Aug. 4, 1978, 92 Stat. 425.)

REFERENCES IN TEXT

The Federal Non-Nuclear Research and Development Act of 1974, as amended, referred to in subsec. (a), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-334, struck out "individual" following "title, to".

1977—Subsec. (a). Pub. L. 95-113 added parenthetical provision extending the section to include farm equipment which utilizes solar energy and added definition of "solar energy".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 1943. Limitations and prohibitions on loans

The Secretary shall make or insure no loan under this subchapter (1) that would cause the total principal indebtedness outstanding at any one time for loans made under this subchapter to any one borrower to exceed, in the case of a loan other than a loan guaranteed by the Secretary, $100,000, or, in the case of a loan guaranteed by the Secretary, $200,000; or (2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program.

(As amended Pub. L. 95-334, title I, § 116, Aug. 4, 1978, 92 Stat. 426.)

AMENDMENTS

1978—Pub. L. 95-334 substituted provisions setting forth criteria for Secretary to make or insure loans under this subchapter for provisions setting forth criteria for Secretary to make loans under this subchapter.

§ 1946. Liability of borrower; determination of interest rates; payment period; consolidation and rescheduling of loans

(a) The Secretary shall make all loans under this subchapter upon the full personal liability of the borrower and upon such security as the Secretary may prescribe. The interest rates on such loans, except for guaranteed loans, shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge not to exceed 1 per centum as determined by the Secretary, which charge shall be deposited in the Rural Development Insurance Fund or the Agricultural Credit Insurance Fund, as appropriate, and adjusted to the nearest one-eighth of 1 per centum. The interest rate on any guaranteed loan made under this subchapter shall be such rate as may be agreed upon by the borrower and lender, but not in excess of a rate as may be determined by the Secretary.

(b) Loans made under this subchapter shall be payable in not to exceed seven years. The Secretary may consolidate or reschedule outstanding loans for payment over a period not to exceed seven years from the date of such consolidation or rescheduling, and the amount of unpaid principal and interest of the prior loans so consolidated or rescheduled shall not create a new charge against any loan levels authorized by law. A new loan may be included in a consolidation. Such new loan shall be charged against any loan level authorized by law. The interest rate on such consolidated or rescheduled loans, other than guaranteed loans, may be changed by the Secretary to a rate not to exceed the rate being charged for loans made under this subchapter at the time of the consolidation or rescheduling. The interest rate on any guaranteed loan under this subchapter that may be consolidated or rescheduled for payment shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.

(As amended Pub. L. 95-334, title I, § 117, Aug. 4, 1978, 92 Stat. 426.)

AMENDMENTS

1978—Pub. L. 95-334 designated existing provisions as subsec. (a) and, as so designated, added provisions relating to depositing of charges and provisions relating to interest rates on guaranteed loans, struck out provisions relating to payment and renewal of loans, and added subsec. (b).

SUBCHAPTER III—EMERGENCY LOANS

EMERGENCY AGRICULTURAL CREDIT

Pub. L. 95-334, title II, §§ 201 to 211, Aug. 4, 1978, 92 Stat. 429-433, provided that:

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Emergency Agricultural Credit Adjustment Act of 1978'.

"AUTHORITY TO INSURE OR GUARANTEE LOANS

"SEC. 202. The Secretary of Agriculture may insure or guarantee loans to (1) bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who are citizens of the United States and (2) farm cooperatives and private domestic corporations and partnerships that are primarily and directly engaged in agricultural production and in which a majority interest is held by members, stockholders, or partners, as applicable, who themselves are citizens of the United States and are primarily and directly engaged in agricultural production, if the applicant for such loan—

"(A) has the experience or training and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan;

"(B) needs such credit in order to maintain a viable agricultural production operation; and

"(C) is unable at the time the loan application is filed to obtain sufficient credit from normal credit sources to finance actual needs at reasonable rates and terms due to national or areawide economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities.

As used in this title, the term 'agricultural production' shall include aquaculture; and the term 'Secretary' shall mean the Secretary of Agriculture.

"PURPOSES OF LOANS

"SEC. 203. (a) Loans may be insured or guaranteed under this title for (1) refinancing outstanding indebtedness, including the making of installment payments of principal and interest, on farm or home real estate and other farm and essential home debts that cannot be paid unless assistance is provided under this title to provide adequate terms within the applicant's repayment ability and assure continuation of the applicant's farming, ranching, or aquaculture operation, (2) reorganization of the farming, ranching, or aquaculture operation, including changes in the nature or method of operation, necessary to provide an economically sound operating unit, (3) purchase of essential water rights, supplies, and irrigation facilities, (4) purchase of essential livestock, poultry, and farm equipment, (5) purchase of feed, seed, fertilizer, insecticides, and farm supplies and other essential farm operating expenses, including cash rent, (6) financing essential land and water development, use, and conservation, (7) other essential farm, ranch, and aquaculture needs, including, but not limited to, family subsistence, and (8) loan closing costs. No loan may be insured or guaranteed under this title the purpose of which is to purchase or lease additional land.

"(b) In making loans under this title, preference shall be given to owners or operators of not larger than family farms. In the case of farm cooperatives, corporations, and partnerships, the family farm preference shall apply to the farm or farms in which both the entity and its principal members, stockholders, or partners, as applicable, have an ownership or operator interest and are primarily and directly engaged in agricultural production.

"GUARANTEED LOAN LIMITS; RATES OF INTEREST; REPAYMENT PERIOD; RESTRICTIONS

"SEC. 204. (a) The Secretary may guarantee under this title the principal and interest on any loan that is made by a legally organized lending agency, and that otherwise meets the purposes and conditions of this title, except that such guarantee shall not exceed 90 per centum of the principal and interest of the loan.

"(b) Loans guaranteed under this title shall bear interest at rates to be agreed upon by the lender and borrower. Loans insured under this title shall bear interest at rates determined by the Secretary taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

"(c) Loans insured and guaranteed under this title shall be repayable at such times as the Secretary may determine, taking into account the purpose of, and need for, the loan, but not later than provided for loans for similar purposes under the Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title]: *Provided*, That, if the loan is for a purpose described in subtitle B of such Act [subchapter II of this chapter], the Secretary may make the loan repayable at the end of a period not exceeding twenty years if the Secretary determines that the need of the applicant justifies a longer repayment period.

"(d) No fees or charges shall be assessed by the Secretary for any loan insured or for any guarantee provided under this title.

"LOAN CERTIFICATIONS AND CONDITIONS

"SEC. 205. (a) As a condition of the Secretary's guaranteeing any loan under this title, the lender shall certify that—

"(1) the lender is unwilling to provide credit to, or continue with, the loan applicant in the absence of the guarantee authorized by this title;

"(2) the loan applicant is directly and in good faith engaged in agricultural production; and

"(3) the financing to be furnished the loan applicant is to be used for one or more of the purposes set forth in section 203 of this title.

"(b) As a condition of the Secretary's insuring any loan under this title, the loan applicant shall certify that—

"(1) the loan applicant will be unable to obtain financing in the absence of the assistance authorized by this title;

"(2) the loan applicant is directly and in good faith engaged in agricultural production; and

"(3) the financing to be furnished the loan applicant is to be used for one or more of the purposes set forth in section 203 of this title.

"(c) As a condition of insuring or guaranteeing any loan under this title, the Secretary must find that there is reasonable probability of accomplishing the objectives of this title and repayment of the loan.

"(d) The Secretary shall require—

"(1) the county committee authorized under section 332 of the Consolidated Farm and Rural Development Act [section 1982 of this title] to certify in writing that the applicant for a loan under this title meets the eligibility requirements for the loan, has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out the applicant's undertakings and obligations; and

"(2) except for guaranteed loans, an agreement by the applicant for a loan under this title that if at any time it shall appear to the Secretary that the applicant may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, the applicant will, upon request by the Secretary, apply for and accept such loan in an amount sufficient to repay the Secretary or the insured lender, or both, and pay for any stock in a cooperative lending agency that must be purchased in connection with such loan.

"LOAN SECURITY

"SEC. 206. Loans shall be insured or guaranteed under this title upon the full personal liability of the borrower secured by such collateral as is available that, together with the confidence of the Secretary, and, for guaranteed loans, the confidence of the lender, in the repayment ability of the loan applicant, is deemed by the Secretary adequate to protect the Government's interest. The collateral may be subject to a prior lien or may be collateral that has depreciated in value owing to temporary economic conditions.

"FUNDING; LIMITATION ON OUTSTANDING LOANS

"SEC. 207. (a) The fund created in section 309 of the Consolidated Farm and Rural Development Act [section 1929 of this title] shall be used by the Secretary for the operation of the loan program, and for the discharge of the obligations incurred by the Secretary, under this title. The Secretary may use such fund to (1) pay administrative expenses of the Secretary necessary to insure, guarantee, and service loans, and otherwise carry out the provisions of this title, and (2) purchase, on such terms and conditions as the Secretary may deem appropriate, all or any portion of any loan insured or guaranteed under this title, or to defer payments of principal and interest with respect to such loan and pay expenses and fees incident to such purchase or deferral. There shall be reimbursed to such fund by appropriations annually an amount equal to the costs incurred in the operation and administration of the program created by this title.

"(b) The total principal balance outstanding at any time on loans insured or guaranteed under this title for any borrower shall not exceed $400,000: *Provided*, That no loan may be insured or guaranteed under this title to a borrower who has any loans outstanding under subtitle A or B of the Consolidated Farm and Rural Development Act [subchapter I or II of this chapter, respectively] that would cause the total outstanding principal indebtedness under this title and subtitles A and B of the Consolidated Farm and Rural Development Act to exceed $650,000, and no loan may be made, insured, or guaranteed under subtitle A or B of the Consolidated Farm and Rural Development Act to any borrower who has any loans outstanding under this title that would cause the total outstanding principal indebtedness under subtitles A and B of the Consolidated Farm and Rural Development Act and this title to exceed $650,000.

"(c) The total principal balance outstanding at any time on loans insured or guaranteed under this title shall not exceed $4,000,000,000.

"FULL FAITH AND CREDIT

"SEC. 208. Any contract of guarantee or insurance executed by the Secretary under this title shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge at the time it becomes a holder.

"ISSUANCE OF CERTIFICATES OF BENEFICIAL OWNERSHIP; CONTRACTS OF GUARANTEE ASSIGNABLE; REGULATIONS

"SEC. 209. (a) The provisions of section 310B(6) of the Consolidated Farm and Rural Development Act [section 1932(6) of this title] shall apply to loans insured or guaranteed under this title. The Secretary is authorized to handle loans guaranteed under this title in the same manner as loans guaranteed under the Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title].

"(b) Contracts of guarantee executed pursuant to the provisions of this title shall be fully assignable.

"(c) The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out this title. Final regulations shall be issued as soon as possible, but in no event later than thirty days after the date of enactment of this title [Aug. 4, 1978]. Insofar as practicable, the Secretary shall complete action on each loan application within thirty days after its receipt.

"AVAILABILITY OF THE PROGRAM

"SEC. 210. Financial assistance may be made available under this title throughout the 'United States' as that term is defined in section 343 of the Consolidated Farm and Rural Development Act [section 1991 of this title].

"EFFECTIVE PERIOD

"SEC. 211. The provisions of this title shall become effective upon enactment [Aug. 4, 1978], and the authority to make new contracts of insurance or guarantee under this title shall terminate May 15, 1980."

EMERGENCY LIVESTOCK CREDIT

Pub. L. 93-357, July 25, 1974, 88 Stat. 391, as amended by Pub. L. 94-35, § 1, June 16, 1975, 89 Stat. 213; Pub. L. 94-517, Oct. 15, 1976, 90 Stat. 2446; Pub. L. 95-334, title III, § 301, Aug. 4, 1978, 92 Stat. 433, provided: "That

[See main edition for text of sec. 1]

"Sec. 2. [Financial Assistance; Loan Guarantees; Term and Renewal] (a) The Secretary of Agriculture is authorized and directed to provide financial assistance to bona fide farmers and ranchers, including bona fide farmers or ranchers owning livestock that are fed in custom feedyards, who are primarily and directly engaged in agricultural production and who have substantial operations in breeding, raising, fattening, or marketing livestock. In the case of corporations or partnerships, such financial assistance shall be extended only when a majority interest in such corporations or partnerships is held by stockholders or partners who themselves are primarily and directly engaged in such agricultural production. For purposes of this Act, the term 'livestock' shall mean beef cattle, dairy cattle, swine, sheep, goats, chickens, and turkeys including dairy cattle raised and maintained for the primary purpose of marketing dairy products.

[See main edition for text of (b) to (f), secs. 3 to 7]

"Sec. 8. [Effective Date] The provisions of this Act shall become effective upon enactment, and the authority to make new guarantees shall expire September 30, 1979, except that, with respect to any loan for a line of credit guaranteed under this Act, if the lender advances loan funds within the line of credit at any time during the remaining term or authorized renewal period of the loan after September 30, 1979, the guarantee of such advances shall not be considered new guarantees.

[See main edition for text of secs. 9 and 10]

"Sec. 11. [Report by Secretary] The Secretary shall, not later than December 15 of each year, report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on the effectiveness of this Act. The Secretary shall be re-

quired, but not limited, to include in such report the number of loan applications submitted, the number and amount of loans approved, the financial situation facing cattlemen at the time of the report, the effect of this Act on the retail marketing of beef and on the farm-retail price spread of beef, and any recommendations he may have as to actions which can be taken to further decrease the price spread and to increase the consumption of beef.

"Sec. 12. [Definition] Financial assistance may be made available under this Act throughout the 'United States' as that term is defined in section 343 of the Consolidated Farm and Rural Development Act. [section 1991 of this title]."

§ 1961. Persons eligible for loans; definition

The Secretary shall make and insure loans under this subchapter to (1) established farmers, ranchers, or persons engaged in aquaculture, who are citizens of the United States, and (2) to farm cooperatives or private domestic corporations or partnerships in which a majority interest is held by members, stockholders, or partners who are citizens of the United States if the cooperative, corporation, or partnership is engaged primarily in farming, ranching, or aquaculture, where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President pursuant to the provisions of the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.]: *Provided,* That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which they reside for loans for similar purposes and periods of time. For the purposes of this subchapter "aquaculture" means husbandry of aquatic organisms under a controlled or selected environment.

(As amended Pub. L. 95-334, title I, § 118, Aug. 4, 1978, 92 Stat. 426.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in text, is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1978—Pub. L. 95-334 struck out subsec. (a), which set forth provisions relating to designation of emergency areas and definition of the term "aquaculture", and incorporated provisions of subsec. (b) as entire section and, as so incorporated, substituted provisions relating to criteria authorizing the Secretary to make and insure loans, for provisions relating to criteria authorizing the Secretary to make loans in designated areas.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1983 of this title; title 15 section 636.

§ 1964. Liability of borrower

(a) Interest rates; maturity; security

Loans made or insured under this chapter shall be (1) at a rate of interest not in excess of 5 per centum per annum on loans up to the amount of the actual loss caused by the disaster, and (2) for any loans or portions of loans in excess of that amount, the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary. All such loans shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than provided for loans for similar purposes under subchapters I and II of this chapter, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided,* That the security is adequate to assure repayment of the loans; except that if such security is not available because of the disaster, the Secretary shall (i) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with his confidence in the repayment ability of the applicant, is adequate security for the loan, and (ii) make such loan repayable at such times as he may determine, not later than that provided under subchapters I and II of this chapter, as justified by the needs of the applicant: *Provided further,* That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subchapter II of this chapter, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period.

(b) Eligibility for grant

Any political subdivision of a State with a population of less than 10,000 which, if such subdivision had a population of 10,000 or more, would be eligible for a grant under the first title of the Community Emergency Drought Relief Act of 1977 shall be eligible for a grant under this chapter during any period in which such Community Relief Act of 1977 is or has been in effect.

(As amended Pub. L. 95-89, title IV, § 406, Aug. 4, 1977, 91 Stat. 561; Pub. L. 95-334, title I, § 119, Aug. 4, 1978, 92 Stat. 427.)

REFERENCES IN TEXT

The Community Emergency Drought Relief Act of 1977, referred to in subsec. (b), is Pub. L. 95-31, May 23, 1977, 91 Stat. 169. Title I of the Community Emergency Drought Relief Act of 1977 is set out as a note under section 5184 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-334 redesignated former subsec. (c) as (b). Former subsec. (b), which related to reductions in the interest rate based on interest rate of the Small Business Administration, was struck out.

Subsec. (c). Pub. L. 95-334 redesignated former subsec. (c) as (b).

1977—Subsec. (a). Pub. L. 95-89 designated existing provisions as subsec. (a) and deleted end proviso prescribing for any loan made by the Small Business Administration in connection with a disaster occurring on or after Aug. 5, 1975, under section 636(b)(1), (2), or (4) of title 15 a rate of interest determined in the first paragraph following section 636(b)(8) of title 15 for loans under paragraphs (3), (5), (6), (7), or (8) of section 636(b) of title 15, now covered in subsec. (b) of this section.

Subsecs. (b), (c). Pub. L. 95-89 added subsecs (b) and (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 119 of Pub. L. 95-334 provided in part that the amendment by Pub. L. 95-334 is effective Oct. 1, 1978.

§ 1965. Repealed. Pub. L. 95-334, title I, § 120, Aug. 4, 1978, 92 Stat. 427

Section, Pub. L. 87-128, title III, § 325, Aug. 8, 1961, 75 Stat. 311; Pub. L. 94-68, § 6, Aug. 5, 1975, 89 Stat. 382, authorized the delegation of authority to State Directors of the Farmers Home Administration for making emergency loans.

§ 1968. Insurance of loans

Loans meeting the requirements of this subchapter and any amendatory or supplementary Act may be insured, or made to be sold and insured, in accordance with and subject to sections 1928 and 1929 and the last sentence of section 1927 of this title.

(As amended Pub. L. 95-334, title I, § 109(b), Aug. 4, 1978, 92 Stat. 423.)

AMENDMENTS

1978—Pub. L. 95-334 struck out proviso relating to inclusion of loans under this section in applying limitation under section 1929(f)(1) of this title.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§ 1981. Farmers Home Administration; appointment and compensation of Administrator; transfer of powers, duties and assets pertaining to agricultural credit; powers of Secretary of Agriculture

[See main edition for text of opening par.]

The Secretary may—

(a) administer his powers and duties through such national, area, State, or local offices and employees in the United States as he determines to be necessary and may authorize an office to serve the area composed of two or more States if he determines that the volume of business in the area is not sufficient to justify separate State offices, and until January 1, 1975, make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter; (and the Secretary shall prior to June 30, 1974, report to the Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit);

[See main edition for text of (b) and (c)]

(d) compromise, adjust, or reduce claims, and adjust and modify the terms of mortgages, leases, contracts, and agreements entered into or administered by the Farmers Home Administration under any of its programs, as circumstances may require, but compromises, adjustments, or reductions of claims of $25,000 or more shall not be made, without the approval of the Administrator: *Provided, however,* That—

[See main edition for text of (1) to (5) and closing proviso; (e) to (h)]

(i) Consent to the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this chapter, or the provisions of any other law administered by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government; and

(j) notwithstanding that an area ceases, or has ceased, to be "rural", in a "rural area", or an eligible area, make loans and grants, and approve transfers and assumptions, under this chapter on the same basis as though the area still was rural in connection with property securing any loan made, insured, or held by the Secretary under this chapter or in connection with any property held by the Secretary under this chapter.

(As amended Pub. L. 95-334, title I, § 121, Aug. 4, 1978, 92 Stat. 427.)

REFERENCES IN TEXT

In the original "this chapter", referred to in introductory paragraph and pars. (a), (e), (i), and (j), read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95-334 in par. (a) struck out references to Puerto Rico and the Virgin Islands, in par. (d) substituted "$25,000" for "$15,000", and added par. (j).

§ 1981a. Loan moratorium and policy on foreclosure

In addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this chapter, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure

shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

(Pub. L. 87-128, title III, § 331A, as added Pub. L. 95-334, title I, § 122, Aug. 4, 1978, 92 Stat. 427.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For distribution of such title in the Code, see Short Title note under section 1921 of this title and Tables.

§ 1983. Special conditions and limitations on loans

In connection with loans made or insured under this chapter, the Secretary shall require—

[*See main edition for text of* (a)]

(b) except for loans under sections 1926, 1932, 1944 and 1961(b)(2) of this title, the county committee to certify in writing that the applicant meets the eligibility requirements for the loan, and has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out his undertakings and obligations; and for loans under section 1961(b)(2) of this title the Secretary shall require the recommendation of the county committee as to the making or insuring of the loan: *Provided*, That the Secretary may provide a procedure for appeal and review of any determination relating to a certification or recommendation required to be made by the county committee, and for reversal or modification thereof should the facts warrant such action;

(c) except for guaranteed loans, an agreement by the borrower that if at any time it shall appear to the Secretary that the borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source (or, in the case of a borrower under section 1934 of this title, the borrower may be able to obtain a loan under section 1922 of this title), at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan;

[*See main edition for text of* (d) *and* (e)]

(As amended Pub. L. 95-334, title I, § 123, Aug. 4, 1978, 92 Stat. 428.)

AMENDMENTS

1978—Par. (b). Pub. L. 95-334, § 123(1), added proviso relating to appeal and review procedure for any determination regarding a certification, etc.

Par. (c). Pub. L. 95-334, § 123(2), (3) added provisions excepting guaranteed loans and provisions relating to borrowers under section 1934 of this title obtaining loans under section 1922 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1932 of this title.

§ 1991. Definitions

As used in this chapter (1) the term "farmers" shall be deemed to include persons who are engaged in, or who, with assistance afforded under this chapter, intend to engage in, fish farming, (2) the term "farming" shall be deemed to include fish farming, (3) the word "insure" as used in this chapter includes guarantee, which means to guarantee the payment of a loan originated, held, and serviced by a private financial agency or other lender approved by the Secretary, (4) the term "contract of insurance" includes a contract of guarantee, and (5) the terms "United States" and "State" shall include each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, to the extent the Secretary determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.

(As amended Pub. L. 95-334, title I, § 124, Aug. 4, 1978, 92 Stat. 428.)

CODIFICATION

Amendment by Pub. L. 95-334 has been set out as cl. (5) as the probable intent of Congress and not as cl. (6) as required by the enacting language of section 124 of Pub. L. 95-334, in view of termination of provisions contained in cl. (3) on June 30, 1970, their deletion from the text of this section, and subsequent renumbering of former cls. (4) and (5) as (3) and (4), respectively.

AMENDMENTS

1978—Pub. L. 95-334 added cl. (5). See Codification note above.

§ 1994. Maximum aggregate principal amounts for loans authorized

Effective October 1, 1979, the aggregate principal amount of loans under the programs authorized under each subchapter of this chapter during each three-year period thereafter shall not exceed such amounts as may be authorized by law after August 4, 1978. There shall be two amounts so established for each of such programs and for any maximum levels provided in appropriation Acts for the programs authorized under this chapter, one against which direct and insured loans shall be charged and the other against which guaranteed loans shall be charged, with or without authority for the Secretary to transfer amounts between such categories within a given program for more effective administration.

(Pub. L. 87-128, title III, § 346, as added Pub. L. 95-334, title I, § 125, Aug. 4, 1978, 92 Stat. 428.)

REFERENCES IN TEXT

In the original "this chapter", referred to in text, read "this title", meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87-128, as amended. For classification of this title in the Code, see Short Title note under section 1921 of this title and Tables.

§ 1995. Participation and financial and technical assistance by other Federal departments, etc. to program participants

Notwithstanding any other provision of law, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with the Secretary to any applicant to whom assistance is being provided under any program administered by the Farmers Home Administration. Participation by any other department, agency, or executive establishment shall be only to the extent authorized for, and subject to the authorities of, such other department, agency, or executive establishment, except that any limitation on joint participation is superseded by this section.

(Pub. L. 87-128, title III, § 347, as added Pub. L. 95-334, title I, § 125, Aug. 4, 1978, 92 Stat. 429.)

CHAPTER 51—FOOD STAMP PROGRAM

Sec.
2027. Authorization of appropriations [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 610, 1786, 5179; title 43 section 1626.

§ 2011. Congressional declaration of policy

It is declared to be the policy of Congress, in order to promote the general welfare, to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. Congress finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "a more nutritious diet" for "a nutritionally adequate diet" as the object of the program.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SHORT TITLE

Section 1 of Pub. L. 88-525, as amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 958, provided that: "This Act [this chapter] may be cited as the 'Food Stamp Act of 1977'."

IMPLEMENTATION OF 1977 AMENDMENT; SAVINGS PROVISIONS; AVAILABILITY OF APPROPRIATED FUNDS; REPORT

Section 1303 of Pub. L. 95-113, provided that:

"(a) The Secretary of Agriculture shall implement the Food Stamp Act of 1977 [this chapter as amended by Pub. L. 95-113] as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended [this chapter prior to amendment by Pub. L. 95-113], which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977. Coupons issued pursuant to the Food Stamp Act of 1964, as amended, and in general use as of the effective date of the Food Stamp Act of 1977 [Oct. 1, 1977], shall continue to be usable to purchase food, and all other liabilities of the Secretary, States, and applicant or participating households, under the Food Stamp Act of 1964, as amended, shall continue in force until finally resolved or terminated by administrative or judicial action, or otherwise.

"(b) Pending proceedings under the Food Stamp Act of 1964, as amended, shall not be abated by reason of any provision of the Food Stamp Act of 1977, but shall be disposed of pursuant to the applicable provisions of the Food Stamp Act of 1964, as amended, in effect prior to the effective date of the Food Stamp Act of 1977 [Oct. 1, 1977].

"(c) Appropriations made available to carry out the Food Stamp Act of 1964, as amended, shall be available to carry out the provisions of the Food Stamp Act of 1977.

"(d) The Secretary shall, within six months of enactment of this Act [Sept. 29, 1977], submit a quarterly report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, setting forth the previous quarter's expenditure, by State, for the food stamp program. Such report shall also include the number of individuals participating in the program and the cost of administering the program at each State level and at the national level."

§ 2012. Definitions

As used in this chapter, the term:

(a) "Allotment" means the total value of coupons a household is authorized to receive during each month.

(b) "Authorization card" means the document issued by the State agency to an eligible household which shows the allotment the household is entitled to be issued.

(c) "Certification period" means the period for which households shall be eligible to receive authorization cards. In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant. In the case of all other households the period shall be not less than three months: *Provided*, That such period may be up to twelve months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary.

(d) "Coupon" means any coupon, stamp, or type of certificate issued pursuant to the provisions of this chapter.

(e) "Coupon issuer" means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility in connection with, the issuance of coupons to households.

(f) "Drug addiction or alcoholic treatment and rehabilitation program" means any such program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91-616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [42 U.S.C. 4541 et seq.]) and Public Law 92-255 (Drug Abuse Office and Treatment Act of 1972 [21 U.S.C. 1101 et seq.]) as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

(g) "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption other than those authorized pursuant to clauses (3), (4), and (5) of this subsection, (2) seeds and plants for use in gardens to produce food for the personal consumption of the eligible household, (3) in the case of those persons who are sixty years of age or over or who receive supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], and their spouses, meals prepared by and served in senior citizens' centers, apartment buildings occupied primarily by such persons, public or private nonprofit establishments (eating or otherwise) that feed such persons, private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices, and meals prepared for and served to residents of federally subsidized housing for the elderly, (4) in the case of persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise so disabled that they are unable adequately to prepare all of their meals, meals prepared for and delivered to them (and their spouses) at their home by a public or private nonprofit organization or by a private establishment that contracts with the appropriate State agency to perform such services at concessional prices, (5) in the case of narcotics addicts or alcoholics served by drug addiction or alcoholic treatment and rehabilitation programs, meals prepared and served under such programs, and (6) in the case of certain eligible households living in Alaska, equipment for procuring food by hunting and fishing, such as nets, hooks, rods, harpoons, and knives (but not equipment for purposes of transportation, clothing, or shelter, and not firearms, ammunition, and explosives) if the Secretary determines that such households are located in an area of the State where it is extremely difficult to reach stores selling food and that such households depend to a substantial extent upon hunting and fishing for subsistence.

(h) "Food stamp program" means the program operated pursuant to the provisions of this chapter.

(i) "Household" means (1) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others, or else pays compensation to the others for such meals, or (2) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption or else live with others and pay compensation to the others for such meals. In neither event shall any individual or group of individuals constitute a household if they reside in an institution or boarding house. For the purposes of this subsection, residents of federally subsidized housing for the elderly and narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions.

(j) "Reservation" means the geographically defined area or areas over which a tribal organization (as that term is defined in subsection (p) of this section) exercises governmental jurisdiction.

(k) "Retail food store" means (1) an establishment or recognized department thereof or house-to-house trade route, over 50 per centum of whose food sales volume consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices, (2) an establishment, organization or program referred to in subsections (g)(3), (4), and (5) of this section, (3) a store purveying the hunting and fishing equipment described in subsection (g)(6) of this section, and (4) any private nonprofit cooperative food purchasing venture, including those in which the members pay for food purchased prior to the receipt of such food.

(*l*) "Secretary" means the Secretary of Agriculture.

(m) "State" means the fifty States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands of the United States, and the reservations of an Indian tribe whose tribal organization meets the requirements of this chapter for participation as a State agency.

(n) "State agency" means (1) the agency of State government, including the local offices thereof, which has the responsibility for the administration of the federally aided public assistance programs within such State, and in those States where such assistance programs are operated on a decentralized basis, the term shall include the counterpart local agencies administering such programs, and (2) the tribal organization of an Indian tribe determined by the Secretary to be capable of effectively administering a food distribution program under section 2013(b) of this title or a food stamp program under section 2020(d) of this title.

(*o*) "Thrifty food plan" means the diet required to feed a family of four persons consisting of a man and a woman twenty through

fifty-four, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall (1) make household-size adjustments taking into account economies of scale, (2) make cost adjustments in the thrifty food plan for Alaska and Hawaii to reflect the cost of food in those States, (3) make cost adjustments in the separate thrifty food plans for Guam, Puerto Rico, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia, and (4) adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the six months ending the preceding September 30 and March 31, respectively.

(p) "Tribal organization" means the recognized governing body of an Indian tribe (including the tribally recognized intertribal organization of such tribes), as the term "Indian tribe" is defined in the Indian Self-Determination Act (25 U.S.C. 450b(b)), as well as any Indian tribe, band, or community holding a treaty with a State government.

(As amended Pub. L. 95-113, title XIII, §§ 1301, 1302(a)(1), Sept. 29, 1977, 91 Stat. 958, 979.)

DEFINITION OF "HOUSEHOLD" FOR PERIOD ENDING SEPTEMBER 30, 1978

Pub. L. 93-233, § 8(a), Dec. 30, 1973, 87 Stat. 956, as amended by Pub. L. 93-335, § 1(a), (b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, § 3, June 28, 1975, 89 Stat. 235; Pub. L. 94-365, § 2, July 14, 1976, 90 Stat. 990; Pub. L. 95-59, § 3, June 30, 1977, 91 Stat. 255, provided that, effective for the period ending September 30, 1978, section 3(e) of the Food Stamp Act of 1964 [subsec. (e) (now subsec. (i)) of this section], should read as it did before amendment by Pub. L. 92-603 and Pub. L. 93-86 but with the addition of a new sentence at the end, and that section 3(b) of Pub. L. 93-86, which had substituted provisions relating to the treatment of individuals receiving supplementary security income benefits under title XVI of the Social Security Act for provisions relating to the treatment of persons eligible to receive supplemental security income benefits under title XVI of the Social Security Act, should also not be effective for the same period. The resulting subsec. (e) [now subsec. (i)] reads as follows:

"(e) The term 'household' shall mean a group of related individuals (including legally adopted children and legally assigned foster children) or non-related individuals over age 60 who are not residents of an institution or boarding house, but are living as one economic unit sharing common cooking facilities and for whom food is customarily purchased in common. The term 'household' shall also mean (1) a single individual living alone who has cooking facilities and who purchases and prepares food for home consumption, or (2) an elderly person who meets the requirements of section 2019(h) of this title. For the period ending September 30, 1978, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], State supplementary payments described in section 1616 of such Act [42 U.S.C. 1382e], or payments of the type referred to in section 212(a) of Public Law 93-66 [set out as a note under section 1382 of Title 42, The Public Health and Welfare], shall be considered to be a member of a household or an elderly person for purposes of this chapter for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616a of the Social Security Act [42 U.S.C. 1382e(a)], and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps."

REFERENCES IN TEXT

Public Law 91-616 (Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970), referred to in subsec. (f), is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, as amended, which is classifed principally to chapter 60 (§ 4541 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of Title 42 and Tables.

Public Law 92-255 (Drug Abuse Office and Treatment Act of 1972), referred to in subsec. (f), is Pub. L. 92-255, Mar. 21, 1972, 86 Stat. 65, as amended, which is classified principally to chapter 16 (§ 1101 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 21 and Tables.

The Social Security Act, referred to in subsec. (g), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVI of the Social Security Act is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Indian Self-Determination Act (25 U.S.C. 450b(b)), referred to in subsec. (p), probably means the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapters II (§ 450 et seq.) and III (§ 451 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

1977—Pub. L. 95-113 redefined the terms "Secretary", "food", "coupon", "household", "retail food store", "State agency", "State", "food stamp program", and "drug addiction or alcoholic treatment and rehabilitation program" and changed the designations of those terms, as thus redefined, from subsecs. (a), (b), (c), (e), (f), (h), (j), (k), and (n), respectively, to (*l*), (g), (d), (i), (k), (n), (m), (h), and (f), substituted definitions of "allotment", "authorization card", and "coupon issuer" for "coupon allotment", "authorization to purchase card", and "coupon vendor", respectively, and changed the designations of those terms as thus substituted from subsecs. (d), (m), and (o), respectively, to (a), (b), and (e), struck out definitions of "wholesale food concern", "bank", and "elderly person" which had been set out, respectively, in subsecs. (g), (i), and (*l*), and added definitions of "certifi-

cation period", "reservation", "thrifty food plan", and "tribal organization" in subsecs. (c), (j), (o), and (p), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

Section 1302(b) of Pub. L. 95-113 provided that: "The amendments made by this section [repealing section 3(b) of Pub. L. 93-86 as described in the repeal note below and amending section 1431 of this title and notes under sections 612c of this title and 1382e of Title 42, The Public Health and Welfare] shall be effective October 1, 1977."

REPEALS

Section 3(b) of Pub. L. 93-86, set out in the credit of this section, was repealed, effective Oct. 1, 1977, by section 1302(a)(1) of Pub. L. 95-113. That section 3(b) of Pub. L. 93-86 had amended the definition of "household" in 1973 to exclude individuals receiving supplementary security income benefits under title XVI of the Social Security Act in certain months.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2019, 2020 of this title.

§ 2013. Establishment of program

(a) Use of coupons; redeemability

Subject to the availability of funds appropriated under section 2027 of this title, the Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this chapter shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

(b) Distribution of federally donated foods

In jurisdictions where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any law, except that distribution may be made (1) on a temporary basis under programs authorized by law to meet disaster relief needs, or (2) for the purpose of the commodity supplemental food program. Distribution of commodities, with or without the food stamp program, shall also be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization. In the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for such distribution, except that, if the Secretary determines that the tribal organization is capable of effectively and efficiently administering such distribution, then such tribal organizations shall administer such distribution: *Provided,* That the Secretary shall not approve any plan for such distribution which permits any household on any Indian reservation to participate simultaneously in the food stamp program and the distribution of federally donated foods. The Secretary is authorized to pay such amounts for administrative costs of such distribution on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

(c) Regulations; transmittal of copy of regulations to Congressional Committees prior to issuance

The Secretary shall issue such regulations consistent with this chapter as the Secretary deems necessary or appropriate for the effective and efficient administration of the food stamp program and shall promulgate all such regulations in accordance with the procedures set forth in section 553 of title 5. In addition, prior to issuing any regulation, the Secretary shall provide the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the regulation with a detailed statement justifying it.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 961.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 made the establishment of the food stamp program subject to the availability of funds appropriated under section 2027 of this title.

Subsec. (b). Pub. L. 95-113 added provisions relating to requests by tribal organizations.

Subsec. (c). Pub. L. 95-113 added provisions relating to the transmittal of regulations and accompanying statement of justification to Congressional committees.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2014 of this title.

§ 2014. Eligible households

(a) Income and other financial resources as substantial limiting factors in obtaining more nutritious diet

Participation in the food stamp program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Assistance under this program shall be furnished to all eligible households who make application for such participation.

(b) Uniform national standards

The Secretary shall establish uniform national standards of eligibility (other than the income standards for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States established in accordance with subsections (c) and (e) of this section) for participation by households in the food stamp program in accordance with the provisions of this section. No plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established

by the Secretary, and no State agency shall impose any other standards of eligibility as a condition for participating in the program.

(c) Nonfarm income poverty guidelines

The income standards of eligibility shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 2971d of title 42, for the forty-eight States and the District of Columbia, Alaska, Hawaii, Puerto Rico, the Virgin Islands of the United States, and Guam, respectively: *Provided*, That in no event shall the standards of eligibility for Puerto Rico, the Virgin Islands of the United States, or Guam exceed those in the forty-eight contiguous States: *Provided further*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the income poverty guidelines for 1977 by the change between the average 1977 Consumer Price Index and the Consumer Price Index for March 1978, utilizing the most current procedures which have been used by the Office of Management and Budget, and the income poverty guidelines for future periods shall be similarly adjusted.

(d) Income excluded in computing household income

Household income for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household, (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter, (3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education or school for the handicapped, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household, (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is a student, and who has not attained his eighteenth birthday, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, and (10) any income that any other law specifically excludes from consideration as income for the purpose of determining eligibility for the food stamp program.

(e) Deductions in computing household income

In computing household income, the Secretary shall allow a standard deduction of $60 a month for each household, except that households in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States shall be allowed a standard deduction determined by the Secretary in accordance with the best available information on the relationship of actual or potential itemized deductions claimed under the food stamp program in those areas to such deductions in the forty-eight contiguous States and the District of Columbia. Such standard deductions, starting July 1, 1978, shall be adjusted every July 1 and January 1 to the nearest $5 to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for items other than food for the six months ending the preceding March 31 and September 30, respectively. All households with earned income shall be allowed an additional deduction of 20 per centum of all earned income (other than that excluded by subsection (d) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses. Households shall also be entitled to (1) a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction contained in clause (2) of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment, or (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed: *Provided*, That the amount of such excess shelter expense deduction shall not exceed $75 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States, amounts determined by the Secretary in accordance with the best available information on the relationship of the actual shelter costs in those areas to such costs in the forty-eight contiguous States and the District of Columbia, adjusted annually (commencing July 1, 1978) to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor for the twelve-month period ending the preceding March 31, or (3) a deduction combining the dependent care and excess shelter expense deductions under clauses (1) and (2) of this subsection, the maximum allowable level of which shall not exceed the maximum allowable deduction under clause (2) of this subsection.

(f) Computation of household income by State agency

Household income shall be calculated by the State agency for the purpose of determining household eligibility. The State agency in calculating household income shall take into account the income reasonably anticipated to be received by the household in the certification period for which eligibility is being determined and the income which has been received by the household during the thirty days preceding the filing of its application for food stamps so that the State agency may reasonably ascertain the income that is and will be actually available to

the household for the certification period, except that for (1) those households which by contract for other than an hourly or piecework basis, or by self-employment, derive their annual income in a period of time shorter than one year, income shall be calculated by being averaged over a twelve-month period and (2) those households which receive nonexcluded income of the type specified in subsection (d)(3) of this section, income shall be calculated by being averaged over the period for which it is provided.

(g) Allowable financial resources which eligible household may own

The Secretary shall prescribe the types and allowable amounts of financial resources (liquid and nonliquid assets) an eligible household may own, and shall, in so doing, assure that a household otherwise eligible to participate in the food stamp program will not be eligible to participate if its resources exceed $1,750, or, in the case of a household consisting of two or more persons, one of whom is age 60 or over, if its resources exceed $3,000. The Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1977, and shall, in addition, (1) include in financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, and any licensed vehicle (other than one used to produce earned income) used for household transportation or used to obtain or continue employment or to transport disabled household members to the extent that the fair market value of any such vehicle exceeds $4,500, and (2) study and develop means of improving the effectiveness of these resource requirements in limiting participation to households in need of food assistance, and implement and report the results of such study and the Secretary's plans to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than June 1, 1978.

(h) Temporary emergency standards of eligibility; Food Stamp Disaster Task Force

(1) The Secretary shall, after consultation with the official empowered to exercise the authority provided for by section 5142(a) of title 42, establish temporary emergency standards of eligibility for the duration of the emergency for households who are victims of a disaster which disrupts commercial channels of food distribution, if such households are in need of temporary food assistance and if commercial channels of food distribution have again become available to meet the temporary food needs of such households. Such standards as are prescribed for individual emergencies may be promulgated without regard to section 2013(c) of this title or the procedures set forth in section 553 of title 5.

(2) The Secretary shall establish a Food Stamp Disaster Task Force, to assist States in implementing and operating the disaster program, which shall be available to go into a disaster area and provide direct assistance to State and local officials.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 962.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted reference to a more nutritious diet for reference to a nutritionally adequate diet, added provision that assistance under the program be furnished to all eligible households making application for participation, added reference to other financial resources held singly or in joint ownership, and struck out provisions excepting the limitation of the section in the case of disaster victims.

Subsec. (b). Pub. L. 95-113 inserted parenthetical reference to income standards for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands of the United States established pursuant to subsecs. (c) and (e) of this section, added provision that no State agency may impose standards for participation in the program additional to those meeting the eligibility standards established by the Secretary, and struck out provisions that had dealt with specific areas of income and financial resources for eligible households. See subsecs. (d) to (h).

Subsec. (c). Pub. L. 95-113 substituted provisions covering guidelines with regard to income standards for provisions covering employment of able-bodied adults in eligible households.

Subsec. (d). Pub. L. 95-113 substituted provisions specifying the specific items making up household income for provisions that required that the Secretary establish uniform national standards.

Subsecs. (e) to (h). Pub. L. 95-113 added subsecs. (e) to (h).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2015, 2017, 2020, 2026; title 43 section 1626.

§ 2015. Eligibility disqualifications

(a) Additional specific conditions rendering individuals ineligible

In addition to meeting the standards of eligibility prescribed in section 2014 of this title, households and individuals who are members of eligible households must also meet and comply with the specific requirements of this section to be eligible for participation in the food stamp program.

(b) Prior fraudulent use of coupons or authorization cards; period of ineligibility

No individual who is a member of a household otherwise eligible to participate in the food stamp program shall be eligible to participate for (1) three months after such individual has been found by a State agency after notice and hearing at the State level, or after failure to appeal a local hearing to the State level, to have fraudulently used, presented, transferred, acquired, received, possessed; or altered coupons or authorization cards, or (2) a period of not less than six and not more than twenty-four months, as determined by the court, after such individual has been found by a court of appropriate jurisdiction, with a State or a political subdivision thereof or the United States as prosecutor or plaintiff, to have been criminally or civilly fraudulent in the use, presentation, transfer, acquisition, receipt, possession, or al-

teration of coupons or authorization cards, or (3) both of the periods specified in clauses (1) and (2) of this subsection. Each such period of ineligibility is to take effect immediately upon the relevant administrative or judicial finding and to remain in effect, without possibility of administrative stay, unless and until the finding of fraud is subsequently reversed by a court of appropriate jurisdiction, but in no event shall the period of disqualification be subject to judicial review.

(c) Refusal to provide necessary information

No household shall be eligible to participate in the food stamp program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility. Every household that is participating in the food stamp program shall report or cause to be reported to the State agency, on a form designed or approved by the Secretary (that shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this chapter, including the penalties therefor, by members of an eligible household) changes in income or household circumstances which the Secretary deems necessary in order to assure accurate eligibility and benefit determinations. The reporting requirement prescribed by this subsection shall be the sole such requirement for reporting changes in income or in household circumstances for participating households.

(d) Refusal to register for or accept employment

(1) Unless otherwise exempted by the provisions of paragraph (d)(2) of this subsection, no household shall be eligible for assistance under this chapter if it includes a physically and mentally fit person between the ages of eighteen and sixty who (i) refuses at the time of application and once every six months thereafter to register for employment in a manner determined by the Secretary; (ii) refuses to fulfill whatever reasonable reporting and inquiry about employment requirements as are prescribed by the Secretary; (iii) is head of the household and voluntarily quits any job without good cause, unless the household was certified for benefits under this chapter immediately prior to such unemployment: *Provided*, That the period of ineligibility shall be sixty days from the time of the voluntary quit; or (iv) refuses without good cause to accept an offer of employment at a wage not less than the higher of either the applicable State or Federal minimum wage, or 80 per centum of the wage that would have governed had the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), been applicable to the offer of employment, and at a site or plant not then subject to a strike or lockout.

(2) A person who otherwise would be required to comply with the requirements of paragraph (1) of this subsection shall be exempt from such requirements if he or she is (A) currently subject to and complying with a work registration requirement under title IV of the Social Security Act, as amended (42 U.S.C. 602), or the Federal-State unemployment compensation system; (B) a parent or other member of a household with responsibility for the care of a dependent child under age twelve or of an incapacitated person; (C) a parent or other caretaker of a child in a household where there is another able-bodied parent who is subject to the requirements of this subsection; (D) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education (except that any such person shall be subject to the requirements of paragraph (1) of this subsection during any period of more than thirty days when such school or program is in vacation or recess and any such person enrolled in an institution of higher education shall be subject to the requirements of subsection (e)(3)(B) of this section as well); (E) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or (F) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours.

(3) To the extent that a State employment service is assigned responsibility for administering the provisions of subsection (d) of this section, it shall comply with regulations issued jointly by the Secretary and the Secretary of Labor, which regulations shall be patterned to the maximum extent practicable on the work incentive program requirements set forth in title IV of the Social Security Act (42 U.S.C. 630 et seq.) and shall take into account the diversity of the needs of the food stamp work registration population.

(e) Students

No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if he or she (1) has reached his or her eighteenth birthday, (2) is enrolled at least half time in an institution of higher education, and (3)(A) is properly claimed or could properly be claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household or (B) during the regular school year (i) is not employed a minimum of twenty hours per week or is not participating in a federally financed work study program, (ii) does not have weekly earnings which at least equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by twenty hours, (iii) is not registered for work amounting to at least twenty hours per week, (iv) is not the head of a household containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, or (v) is not covered by an exemption from the work registration requirement contained in subsection (d) of this section other than clause (D) of paragraph (2) of that subsection.

(f) Aliens

No individual who is a member of a household otherwise eligible to participate in the

food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household unless he or she is (1) a resident of the United States and (2) either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 1101(a)(15) and 1101(a)(20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8; or (D) an alien who has qualified for conditional entry pursuant to section 1153(a)(7) of title 8 because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity; or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8; or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 1253(h) of title 8 because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion. No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the food stamp program as a member of any household.

(g) Residents of States which provide State supplementary payments

No individual who receives supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] State supplementary payments described in section 1616 of such Act [42 U.S.C. 1382e], or payments of the type referred to in section 212(a) of Public Law 93-66, as amended, shall be considered to be a member of a household for any month, if, for such month, such individual resides in a State which provides State supplementary payments (1) of the type described in section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)] and section 212(a) of Public Law 93-66, and (2) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

(h) Transfer of assets to qualify

No household that knowingly transfers assets for the purpose of qualifying or attempting to qualify for the food stamp program shall be eligible to participate in the program for a period of up to one year from the date of discovery of the transfer.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 964.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, as amended, referred to in subsecs. (d)(1), (2), and (e), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Social Security Act, as amended, referred to in subsecs. (d)(1), (2) and (g), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IV of the Social Security Act, as amended, is classified generally to subchapter IV (§ 601 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Title XVI of the Social Security Act is classified generally to subchapter XVI (§ 1381 et seq.) of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 212(a) of Pub. L. 93-66, referred to in subsec. (g), is Pub. L. 93-66, title II, § 212(a), July 9, 1973, 87 Stat. 155, which is set out as a note under section 1382 of Title 42, The Public Health and Welfare.

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions covering eligibility disqualifications for provisions relating to the issuance, usage, and design of coupons which are now covered by section 2016 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2020, 2026 of this title.

§ 2016. Issuance and use of coupons

(a) Printing

Coupons shall be printed under such arrangements and in such denominations as may be determined by the Secretary to be necessary, and shall be issued only to households which have been duly certified as eligible to participate in the food stamp program.

(b) Approved food stores; receipt of cash in change for coupons used to purchase food

Coupons issued to eligible households shall be used by them only to purchase food in retail food stores which have been approved for participation in the food stamp program at prices prevailing in such stores: *Provided,* That nothing in this chapter shall be construed as authorizing the Secretary to specify the prices at which food may be sold by wholesale food concerns or retail food stores: *Provided further,* That eligible households using coupons to purchase food may receive cash in change therefor so long as the cash received does not equal or exceed the value of the lowest coupon denomination issued.

(c) Design of coupons

Coupons issued to eligible households shall be simple in design and shall include only such words or illustrations as are required to explain their purpose and define their denomination. The name of any public official shall not appear on such coupons.

(d) Coupon level inventories; monitorship; monthly operations report

The Secretary shall develop an appropriate procedure for determining and monitoring the

level of coupon inventories in the hands of coupon issuers for the purpose of providing that such inventories are at proper levels (taking into consideration the historical and projected volume of coupon distribution by such issuers). Such procedures shall provide that coupon inventories in the hands of such issuers are not in excess of the reasonable needs of such issuers taking into consideration the ease with which such coupon inventories may be resupplied. The Secretary shall require each coupon issuer at intervals prescribed by the Secretary, but not less often than monthly, to send to the Secretary or the Secretary's designee, which may include the State agency, a written report of the issuer's operations during such period. In addition to other information deemed by the Secretary to be appropriate, the Secretary shall require that the report contain an oath, or affirmation, signed by the coupon issuer, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon issuer, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

(e) Delivery and control procedures

The Secretary shall prescribe appropriate procedures for the delivery of coupons to coupon issuers and for the subsequent controls to be placed over such coupons by coupon issuers in order to ensure adequate accountability.

(f) Financial losses

Notwithstanding any other provision of this chapter, the State agency shall be responsible to the Secretary for any financial losses involved in the acceptance, storage, and issuance of coupons.

(As amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 967.)

AMENDMENTS

1977—Pub. L. 95–113 substituted revised provisions relating to the issuance and use of coupons for provisions relating to the value of the coupon allotment which are now covered by section 2017 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2024 of this title.

§ 2017. Value of allotment

(a) The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 2014 of this title, rounded to the nearest whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be $10 per month. The Secretary shall, six months after the implementation of the elimination of the charge for allotments and annually thereafter, report to Congress the effect on participation and cost of this elimination.

(b) The value of the allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of an allotment under this chapter.

(As amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 968.)

AMENDMENTS

1977—Pub. L. 95–113 substituted revised provisions relating to the value of the coupon allotment for provisions covering approval of retail stores and wholesale food concerns which are now covered by section 2018 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2026 of this title.

§ 2018. Approval of retail food stores and wholesale food concerns

(a) Applications; qualifications; certificate of approval

Regulations issued pursuant to this chapter shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized to accept and redeem coupons under the food stamp program and for the approval of those applicants whose participation will effectuate the purposes of the food stamp program. In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following: (1) the nature and extent of the food business conducted by the applicant; (2) the volume of coupon business which may reasonably be expected to be conducted by the applicant food store or wholesale food concern; and (3) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval.

(b) Effective and efficient operation of program

No wholesale food concern may be authorized to accept and redeem coupons unless the Secretary determines that its participation is required for the effective and efficient operation of the food stamp program. In addition, no firm may be authorized to accept and redeem coupons as both a retail food store and as a wholesale food concern at the same time.

(c) Information submitted by applicants; safeguards

Regulations issued pursuant to this chapter shall require an applicant retail food store or wholesale food concern to submit information which will permit a determination to be made

as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this chapter or the regulations issued pursuant to this chapter. Regulations issued pursuant to this chapter shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter.

(d) Hearing upon failure of applicant to receive approval

Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the food stamp program may obtain a hearing on such refusal as provided in section 2023 of this title.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 968.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions covering the approval of retail food stores and wholesale food concerns for provisions relating to the redemption of coupons which are now covered by section 2019 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 2019. Redemption of coupons

Regulations issued pursuant to this chapter shall provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through banks, with the cooperation of the Treasury Department, except that retail food stores defined in section 2012(k)(4) of this title shall be authorized to redeem their members' food coupons prior to receipt by the members of the food so purchased and private nonprofit organizations or institutions which serve meals to narcotics addicts or alcoholics in drug addiction or alcoholic treatment and rehabilitation programs shall not be authorized to redeem coupons through banks.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 969.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions covering the redemption of coupons for provisions relating to the administration of the program which are now covered by section 2020 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2012 of this title; title 42 section 4728.

§ 2020. Administration

(a) State responsibility; records, inspection and audit

The State agency of each participating State shall assume responsibility for the certification of applicant households and for the issuance of coupons and the control and accountability thereof. There shall be kept such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this chapter and the regulations issued pursuant to this chapter. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such period of time, not less than three years, as may be specified in the regulations issued pursuant to this chapter.

(b) Certification

Certification of a household as eligible in any political subdivision shall, in the event of removal of such household to another political subdivision in which the food stamp program is operating, remain valid for participation in the food stamp program for a period of sixty days from the date of such removal.

(c) Discrimination prohibited

In the certification of applicant households for the food stamp program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political beliefs.

(d) Plan of operation by State agency; Indians

The State agency (as defined in section 2012(n)(1) of this title) of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State in every political subdivision. In the case of all or part of an Indian reservation, the State agency as defined in section 2012(n)(1) of this title shall be responsible for conducting such program on such reservation unless the Secretary determines that the State agency (as defined in section 2012(n)(1) of this title) is failing, subsequent to August 31, 1964, properly to administer such program on such reservation in accordance with the purposes of this chapter and further determines that the State agency as defined in section 2012(n)(2) of this title is capable of effectively and efficiently conducting such program, in light of the distance of the reservation from State agency-operated certification and issuance centers, the previous experience of such tribal organization in the operation of programs authorized under the Indian Self-Determination Act (25 U.S.C. 450) and similar Acts of Congress, the tribal organization's management and fiscal capabilities, and the adequacy of measures taken by the tribal organization to ensure that there shall be no discrimination in the operation of the program on the basis of race, color, sex, or national origin, in which event such State agency shall be responsible for conducting such program and submitting for approval a plan of operation specifying the manner in which such program will be conducted. The Secretary, upon the request of a tribal organization, shall provide the designees of such organization with appropriate training and technical assistance to enable them to qual-

ify as expeditiously as possible as a State agency pursuant to section 2012(n)(2) of this title. A State agency, as defined in section 2012(n)(1) of this title, before it submits its plan of operation to the Secretary for the administration of the food stamp program on all or part of an Indian reservation, shall consult in good faith with the tribal organization about that portion of the State's plan of operation pertaining to the implementation of the program for members of the tribe, and shall implement the program in a manner that is responsive to the needs of the Indians on the reservation as determined by ongoing consultation with the tribal organization.

(e) Requisites of State plan of operation

The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

(1) that the State agency shall (A) inform low-income households about the availability, eligibility requirements, and benefits of the food stamp program, including, but not limited to, notification to recipients of aid to families with dependent children, supplemental security income, and unemployment compensation, distribution of application forms, and associated instructions in filling out such forms, and on the documentation required pursuant to paragraph (3) of this subsection; (B) not conduct any other outreach activities of a noninformational nature in those areas in which a federally funded community action program is in operation and conducting food stamp outreach; and (C) use appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English;

(2) that each household which contacts a food stamp office in person during office hours to make what may reasonably be interpreted as an oral or written request for food stamp assistance shall receive and shall be permitted to file, on the same day that such contact is first made, a simplified, uniform national application form for participation in the food stamp program designed by the Secretary, unless the Secretary approves a deviation from that form by a particular State agency because of the use by that agency of a dual public assistance food stamp application form pursuant to subsection (i) of this section, the requirements of an agency's computer system, or other exigencies as determined by the Secretary. Each application form shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this chapter, including the penalties therefor, by members of an eligible household. The State agency shall comply with the standards established by the Secretary for points and hours of certification, and for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person at a certification office or through a representative pursuant to paragraph (7) of this subsection, so that such persons may have an adequate opportunity to be certified properly;

(3) that the State agency shall thereafter promptly determine the eligibility of each applicant household by way of verification only of income other than that determined to be excluded by section 2014(d) of this title and such other eligibility factors as the Secretary determines to be necessary to implement sections 2014 and 2015 of this title, so as to complete certification of and provide an allotment retroactive to the period of application to any eligible household not later than thirty days following its filing of an application;

(4) that the State agency shall insure that each participating household receive a notice of expiration of its certification immediately prior to or at the start of the last month of its certification period advising it that it must submit a new application in order to renew its eligibility for a new certification period and, further, that each such household which seeks to be certified another time or more times thereafter by filing an application for such recertification no later than fifteen days prior to the day upon which its existing certification period expires shall, if found to be still eligible, receive its allotment no later than one month after the receipt of the last allotment issued to it pursuant to its prior certification, but if such household is found to be ineligible or to be eligible for a smaller allotment during the new certification period it shall not continue to participate and receive benefits on the basis authorized for the preceding certification period even if it makes a timely request for a fair hearing pursuant to paragraph (10) of this subsection;

(5) the specific standards to be used in determining the eligibility of applicant households which shall be in accordance with sections 2014 and 2015 of this title and shall include no additional requirements imposed by the State agency;

(6) that (A) the State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this chapter; (B) the State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the United States Civil Service Commission pursuant to section 4728 of title 42 modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis; and (C) the State agency shall undertake to provide a continuing, comprehensive program of training for all personnel undertaking such certification;

(7) that any applicant household may be represented in the certification process and that any eligible household may be represent-

ed in coupon issuance or food purchase by a person other than a member of the household so long as that person has been clearly designated as the representative of that household for that purpose by the head of the household or the spouse of the head, and, where the certification process is concerned, the representative is an adult who is sufficiently aware of relevant household circumstances;

(8) safeguards which limit the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter;

(9) that households in immediate need because of no income as defined in sections 2014(d) and (e) of this title receive coupons on an expedited basis;

(10) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of the State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program or by a claim against the household for an overissuance: *Provided*, That any household which timely requests such a fair hearing after receiving individual notice of agency action reducing or terminating its benefits within the household's certification period shall continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action until such time as the fair hearing is completed and an adverse decision rendered or until such time as the household's certification period terminates, whichever occurs earlier;

(11) for the prompt restoration in the form of coupons to households of any allotment or portion thereof which has been wrongfully denied or terminated;

(12) for the submission of such reports and other information as from time to time may be required by the Secretary;

(13) for compliance with standards set by the Secretary with respect to points and hours of coupon issuance;

(14) for indicators of expected performance in the administration of the program;

(15) that the State agency shall prominently display in all food stamp and public assistance offices posters prepared or obtained by the Secretary describing the information contained in subparagraphs (A) through (D) of this paragraph and shall make available in such offices for home use pamphlets prepared or obtained by the Secretary listing (A) foods that contain substantial amounts of recommended daily allowances of vitamins, minerals, and protein for children and adults; (B) menus that combine such foods into meals; (C) details on eligibility for other programs administered by the Secretary that provide nutrition benefits; and (D) general information on the relationship between health and diet; and

(16) that the State agency shall specify a plan of operation for providing food stamps for households that are victims of a disaster; that such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruction of caseworkers in procedures for implementing and operating the disaster program.

(f) Food and nutrition education program

To encourage the purchase of nutritious foods, the Secretary shall extend the expanded food and nutrition education program to the greatest extent possible to reach food stamp program participants. The program shall be further supplemented by the development of single concept printed materials, specifically designed for persons with low reading and comprehension levels, on how to buy and prepare more nutritious and economical meals and on the relationship between food and good health.

(g) State noncompliance; correction of failures

If the Secretary determines that in the administration of the food stamp program there is a failure by a State agency to comply with any of the provisions of this chapter, the regulations issued pursuant to this chapter, or the State plan of operation submitted pursuant to subsection (d) of this section, the Secretary shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within that specified period, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the State agency and, upon suit by the Attorney General in an appropriate district court of the United States having jurisdiction of the geographic area in which the State agency is located and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

(h) Deposit by State to cover fraudulently or negligently issued coupons

If the Secretary determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State shall, upon request of the Secretary, deposit into the Treasury of the United States, a sum equal to the face value of any coupon or coupons issued as a result of such negligence or fraud.

(i) System development

Notwithstanding any other provision of law, the Secretary and the Secretary of Health, Education, and Welfare shall develop a system by which (1) a single interview shall be conducted to determine eligibility for the food stamp program and the aid to families with dependent children program under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; (2) households in which all members are recipients of supplemental security income shall be permitted to apply for participation in the food stamp program by executing a simplified affidavit at the social security office and be

certified for eligibility utilizing information contained in files of the Social Security Administration; (3) households in which all members are included in a federally aided public assistance or State or local general assistance grant shall have their application for participation in the food stamp program contained in the public assistance or general assistance application form; and (4) new applicants, as well as households which have recently lost or been denied eligibility for public assistance or general assistance, shall be certified for participation in the food stamp program based on information in the public assistance or general assistance case file to the extent that reasonably verified information is available in such case file.

(j) Joint regulations

The Secretary, in conjunction with the Secretary of Health, Education, and Welfare, is authorized to prescribe regulations permitting applicants for and recipients of social security benefits to apply for food stamps at social security offices and be certified for food stamp eligibility in such offices in order that the application and certification for food stamp assistance may be accomplished as efficiently and conveniently as possible.

(k) Use of post offices

Subject to the approval of the President, post offices in all or part of the State may issue, upon request by the State agency, food stamps to eligible households.

(As amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 969.)

REFERENCES IN TEXT

The Indian Self-Determination Act (25 U.S.C. 450), referred to in subsec. (d), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified generally to subchapter II (§ 450f et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Social Security Act, referred to in subsec. (i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Social Security Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1977—Pub. L. 95–113 substituted revised provisions relating to the administration of the program for provisions relating to the disqualification of retail stores and wholesale concerns which are now covered by section 2021 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective Oct. 1, 1977.

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission or the Chairman thereof were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2012, 2025 of this title.

§ 2021. Civil money penalties and disqualification of retail food stores and wholesale food concerns

Any approved retail food store or wholesale food concern may be disqualified for a specified period of time from further participation in the food stamp program, or subjected to a civil money penalty of up to $5,000 for each violation if the Secretary determines that its disqualification would cause hardship to food stamp households, on a finding, made as specified in the regulations, that such store or concern has violated any of the provisions of this chapter or the regulations issued pursuant to this chapter. Such disqualification shall be for such period of time as may be determined in accordance with regulations issued pursuant to this chapter. The action of disqualification or the imposition of a civil money penalty shall be subject to review as provided in section 2023 of this title.

(As amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 974.)

AMENDMENTS

1977—Pub. L. 95–113 substituted revised provisions covering civil money penalties and disqualification of retail food stores and wholesale food concerns for provisions relating to the determination and disposition of claims which are now covered by section 2022 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 2022. Determination of disposition of claims

The Secretary shall have the power to determine the amount of and settle and adjust any claim and to compromise or deny all or part of any such claim or claims arising under the provisions of this chapter or the regulations issued pursuant to this chapter, including, but not limited to, claims arising from fraudulent and nonfraudulent overissuances to recipients. Such powers with respect to claims against recipients may be delegated by the Secretary to State agencies.

(As amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 974.)

AMENDMENTS

1977—Pub. L. 95–113 substituted revised provisions relating to the determination and disposition of claims for provisions relating to administrative and judicial review which are now covered by section 2023 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2023 of this title.

§ 2023. Administrative and judicial review

Whenever an application of a retail food store or wholesale food concern to participate in the food stamp program is denied pursuant to section 2018 of this title, or a retail food store or wholesale food concern is disqualified or subjected to a civil money penalty under the provisions of section 2021 of this title, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 2022 of this title, or a claim against a State agency is stated pursuant to the provisions of section 2022 of this title, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved. Such notice shall be delivered by certified mail or personal service. If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this chapter, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate. If such a request is not made or if such store, concern, or State agency fails to submit information in support of its position after filing a request, the administrative determination shall be final. If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be reviewed by the person or persons designated by the Secretary, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination. If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business, or, in the case of a retail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination. The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process. The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue. If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence. During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless an application to the court on not less than ten days' notice, and after hearing thereon and a showing of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 974.)

AMENDMENTS

1977—Pub. L. 95-113 substituted revised provisions for administrative and judicial review for provisions relating to violations and enforcement which are now covered by section 2024 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2018, 2021 of this title.

§ 2024. Violations and enforcement

(a) Coupon redemption

Notwithstanding any other provision of this chapter, the Secretary may provide for the issuance or presentment for redemption of coupons to such person or persons, and at such times and in such manner, as the Secretary deems necessary or appropriate to protect the interests of the United States or to ensure enforcement of the provisions of this chapter or the regulations issued pursuant to this chapter.

(b) Unauthorized use, transfer, acquisition, alteration, or possession of coupons or authorization cards

Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization cards in any manner not authorized by this chapter or the regulations issued pursuant to this chapter shall, if such coupons or authorization cards are of the value of $100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons or authorization cards are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) Presentation for payment or redemption of coupons that have been illegally received, transferred, or used

Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this chapter or the regulations issued pursuant to this chapter shall be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(d) Coupons as obligations of the United States

Coupons issued pursuant to this chapter shall be deemed to be obligations of the United States within the meaning of section 8 of title 18.

(e) Failure to provide monthly operations report; violation of regulations; delivery and control procedures

Any coupon issuer or any officer, employee, or agent thereof convicted of failing to provide the report required under section 2016(d) of this title or of violating the regulations issued under section 2016(d) and (e) of this title shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(f) Liability for financial losses involved in acceptance, storage, and issuance of coupons

Any coupon issuer or any officer, employee, or agent thereof convicted of knowingly providing false information in the report required under section 2016(d) of this title shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(As amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 975.)

AMENDMENTS

1977—Pub. L. 95–113 substituted revised provisions relating to violations and enforcement for provisions relating to the State financing of administrative costs which are now covered by section 2025 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective Oct. 1, 1977.

§ 2025. Administrative cost-sharing and quality control

(a) Administrative costs

The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs involved in each State agency's operation of the food stamp program, which costs shall include, but not be limited to, the cost of (1) outreach, (2) the certification of applicant households, (3) the acceptance, storage, protection, control, and accounting of coupons after their delivery to receiving points within the State, (4) the issuance of coupons to all eligible households, and (5) fair hearings: *Provided,* That the Secretary is authorized to pay each State agency an amount not less than 75 per centum of the costs of State food stamp program investigations and prosecutions, and is further authorized at the Secretary's discretion to pay any State agency administering the food stamp program on all or part of an Indian reservation under section 2020(d) of this title such amounts for administrative costs as the Secretary determines to be necessary for effective operation of the food stamp program.

(b) Standards; withholding of funds

The Secretary shall (1) establish standards for the efficient and effective administration of the food stamp program by the States, including, but not limited to, staffing standards such as caseload per certification worker limitations, and (2) instruct each State to submit, at regular intervals, reports which shall specify the specific administrative actions proposed to be taken and implemented in order to meet the efficiency and effectiveness standards established pursuant to clause (1) of this subsection. If the Secretary finds that a State has failed without good cause to meet any of the Secretary's standards, or has failed to carry out the approved State plan of operation under section 2020(d) of this title, the Secretary shall withhold from the State such funds authorized under subsections (a) and (c) of this section as the Secretary determines to be appropriate.

(c) Federal share adjustment

Effective October 1, 1978, the Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 per centum as described in the exception clause of subsection (a) of this section, by increasing such share to 60 per centum of all such administrative costs in the case of a State agency whose cumulative allotment error rates with respect to eligibility, overissuance, and underissuance as calculated in the quality control program undertaken pursuant to subsection (d)(1) of this section is less than five per centum.

(d) Annual quality control plan

Effective October 1, 1978, and annually thereafter, each State not receiving an increased share of administrative costs pursuant to subsection (c) of this section shall be required to develop and submit to the Secretary for approval, as part of the plan of operation required to be submitted under section 2020(d) of this title, a quality control plan for the State which shall specify the actions such State proposes to take in order to reduce—

(1) the incidence of error rates in and the value of—

(A) food stamp allotments for households which fail to meet basic program eligibility requirements;

(B) food stamp allotments overissued to eligible households; and

(C) food stamp allotments underissued to eligible households; and

(2) the incidence of invalid decisions in certifying or denying eligibility.

(e) Definition

As used in this section "quality control" means monitoring and reducing the rate of errors in determining basic eligibility and benefit levels.

(As amended Pub. L. 95–113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 976.)

AMENDMENTS

1977—Pub. L. 95–113 substituted revised provisions relating to administrative cost-sharing and quality control for provisions authorizing appropriations and relating to the financial operation of the program which are now covered by section 2027 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95–113 provided in part that the amendment by Pub. L. 95–113 is effective Oct. 1, 1977.

§ 2026. Research, demonstration, and evaluations

(a) Contracts or grants

The Secretary may, by way of making contracts with or grants to public or private organizations or agencies, undertake research that will help improve the administration and effectiveness of the food stamp program in delivering nutrition-related benefits.

(b) Pilot projects

(1) The Secretary is authorized to conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households, including projects involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], the use of countersigned food coupons or similar identification mechanisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of food coupons. The Secretary may waive the requirements of this chapter to the degree necessary for such projects to be conducted, except that no project shall be implemented which would lower or further restrict the income or resource standards or benefit levels provided pursuant to sections 2014 and 2017 of this title.

(2) The Secretary shall, jointly with the Secretary of Labor, implement two pilot projects involving the performance of work in return for food stamp benefits in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture, such projects to be (A) appropriately divided in each region between locations that are urban and rural in characteristics and among locations selected to provide a representative cross-section of political subdivisions in the States and (B) submitted for approval prior to project implementation, together with the names of the agencies or organizations that will be engaged in such projects, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Under such pilot projects, any person who is subject to the work registration requirements pursuant to section 2015(d) of this title, and is a member of a household that does not have earned income equal to or exceeding the allotment to which the household is otherwise entitled pursuant to section 2017(a) of this title, shall be ineligible to participate in the food stamp program as a member of any household during any month in which such person refuses, after not being offered employment in the private sector of the economy for more than thirty days after the initial registration for employment referred to in section 2015(d)(1)(i) of this title, to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), for which employment compensation shall be paid in the form of the allotment to which the household is otherwise entitled pursuant to section 2017(a) of this title, with each hour of employment entitling the household to a portion of the allotment equal in value to 100 per centum of the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)); which employment shall not, together with any other hours worked in any other capacity by such person exceed forty hours a week; and which employment shall not be used by the employer to fill a job opening created by the action of such employer in laying off or terminating the employment of any regular employee not supported under this paragraph in anticipation of filling the vacancy so created by hiring an employee or employees to be supported under this paragraph: *Provided,* That all of the political subdivision's or prime sponsor's public service jobs supported under the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), are filled before such subdivision or sponsor can extend a job offer pursuant to this paragraph: *Provided further,* That the sponsor of each such project shall provide the assurances required of prime sponsors under section 205(c)(7), (8), (15), (19), and (24) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 845(c)), and the Secretary shall require such sponsors to comply with the conditions contained in sections 208(a)(1), (4), and (5) and (c) and 703(4) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 848(a) and (c) and 983). The Secretary and the Secretary of Labor shall jointly issue reports to the appropriate committees of Congress on the progress of such pilot projects no later than six and twelve months following September 29, 1977, shall issue an interim report no later than October 1, 1979, and shall issue a final report describing the results of such pilot projects no later than October 1, 1980.

(c) Evaluation measures

The Secretary shall develop and implement measures for evaluating, on an annual or more frequent basis, the effectiveness of the food stamp program in achieving its stated objectives, including, but not limited to, the program's impact upon the nutritional and economic status of participating households, the program's impact upon all sectors of the agricultural economy, including farmers and ranchers, as well as retail food stores, and the program's relative fairness to households of different income levels, different age composition, different size, and different regions of residence.

(d) Study on recovery of food stamp benefits

Notwithstanding any other provision of law, the Secretary shall, in consultation with the Secretary of the Treasury, conduct a study, through the use of Federal income tax data, of the feasibility, alternative methods of implementation, and the effects of a program to recover food stamp benefits from members of eligible households in which the adjusted gross income of members of such households for a calendar year (as defined by title 26) may

exceed twice the income poverty guidelines set forth in section 2014(c) of this title. Such study shall be conducted in rural and urban areas only on a voluntary basis by food stamp recipients. The Secretary shall, no later than twelve months and eighteen months from September 29, 1977, report the results of the study to the Committees on Agriculture and Ways and Means of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Finance of the Senate, together with such recommendations as the Secretary deems appropriate.

(As amended Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 977; Pub. L. 95-400, Sept. 30, 1978, 92 Stat. 856.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVI of the Social Security Act is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b)(2), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, now known as the Comprehensive Employment and Training Act, which is classified generally to chapter 17 (§ 801 et seq.) of Title 29, Labor. The Act was amended generally by Pub. L. 95—524, Oct. 27, 1978. 92 Stat. 1912. Sections 821, 845, 848, and 983 of Title 29, also referred to in subsec. (b)(2), are references to sections of the 1973 Act prior to amendment by Pub. L. 95-524. For further details, see Prior Provisions notes set out under those sections of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables.

The Fair Labor Standards Act of 1938, as amended, referred to in subsec. (b)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

1978—Subsec. (b)(2). Pub. L. 95-400 required issuance of an interim report no later than Oct. 1, 1979, and substituted requirement for issuance of a final report no later than Oct. 1, 1980, for prior requirement of a final report no later than eighteen months following Sept. 29, 1977.

1977—Pub. L. 95-113 substituted provisions relating to research, demonstrations, and evaluations for provisions relating to the purchase with coupons of hunting and fishing equipment for procuring food by members of eligible households living in Alaska.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1301 of Pub. L. 95-113 provided in part that the amendment by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2027 of this title.

§ 2027. Authorization of appropriations

(a) To carry out the provisions of this chapter, there are hereby authorized to be appropriated not in excess of $5,847,600,000 for the fiscal year ending September 30, 1978; not in excess of $6,158,900,000 for the fiscal year ending September 30, 1979; not in excess of $6,188,600,000 for the fiscal year ending September 30, 1980; and not in excess of $6,235,900,000 for the fiscal year ending September 30, 1981. Not to exceed one-fourth of 1 per centum of the previous year's appropriation is authorized in each such fiscal year to carry out the provisions of section 2026 of this title. Sums appropriated under the provisions of this chapter shall, notwithstanding the provisions of any other law, continue to remain available until expended.

(b) In any fiscal year, the Secretary shall limit the value of those allotments issued to an amount not in excess of the appropriation for such fiscal year. If in any fiscal year the Secretary finds that the requirements of participating States will exceed the limitation set herein, the Secretary shall direct State agencies to reduce the value of such allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with the provisions of this subsection.

(Pub. L. 88-525, § 18, as added Pub. L. 95-113, title XIII, § 1301, Sept. 29, 1977, 91 Stat. 979.)

EFFECTIVE DATE

Section 1301 of Pub. L. 95-113 provided in part that the enactment of this section by Pub. L. 95-113 is effective Oct. 1, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2013 of this title.

CHAPTER 52—FARM LABOR CONTRACTOR REGISTRATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 26 section 3306; title 29 section 777b.

§ 2042. Definitions

As used in this chapter—

[*See main edition for text of* (a)]

(b) The term "farm labor contractor" means any person, who, for a fee, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers (excluding members of his immediate family) for agricultural employment. Such term shall not include—

[*See main edition for text of* (1) *to* (7)]

(8) any custom combine, hay harvesting, or sheep shearing operation,

(9) any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours; or

(10) any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any cal-

endar year: *Provided,* That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: *Provided further,* That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.

[*See main edition for text of* (c) *to* (g)]

(As amended Pub. L. 95–562, § 4, Nov. 1, 1978, 92 Stat. 2382.)

AMENDMENTS

1978—Subsec. (b)(10). Pub. L. 95–562 added subsec. (b)(10).

§ 2044. Issuance of certificate of registration

CODIFICATION

The Interstate Commerce Act, referred to in subsec. (a)(2), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

CHAPTER 53—COTTON RESEARCH AND PROMOTION

§ 2106. Required terms and conditions in orders

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2105, 2113, 2116 of this title.

§ 2119. Repealed. Pub. L. 94–366, § 1, July 14, 1976, 90 Stat. 991

Section, Pub. L. 91–524, title VI, § 610, Nov. 30, 1970, 84 Stat. 1378; Pub. L. 93–86, § 1(23), Aug. 10, 1973, 87 Stat. 235, related to cotton development programs of the Commodity Credit Corporation, and funding for such programs.

EFFECTIVE DATE OF REPEAL

Section 1 of Pub. L. 94–366 provided in part that this section is repealed effective Oct. 1, 1977.

CHAPTER 54—TRANSPORTATION, SALE, AND HANDLING OF CERTAIN ANIMALS

§ 2145. Consultation and cooperation with Federal, State, and local governmental bodies by Secretary of Agriculture

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of Title 49, Transportation, effective on or before Jan. 1, 1985.

§ 2156. Animal fighting venture prohibition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2153, 2154; title 39 section 3001.

CHAPTER 55—DEPARTMENT OF AGRICULTURE

Sec.

2211a. Under Secretary of Agriculture for International Affairs and Commodity Programs; appointment [New].
2266. Congressional reaffirmation of policy to foster and encourage family farms; annual report to Congress [New].
2267. Emergency feed program [New].
(a) Implementation.
(b) Conditions.
(c) Reimbursement.
(d) Penalty for unauthorized disposition of feed.
(e) Rules and regulations.
(f) Commodity Credit Corporation.
(g) Delegation of authority prohibited.
2268. Public lands; relinquishment [New].
2269. Gifts of property; acceptance and administration by Secretary of Agriculture; Federal tax law consideration; separate fund in Treasury; regulations [New].

§ 2201. Establishment of Department

There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, rural development, aquaculture, and human nutrition, in the most general and comprehensive sense of those terms, and to procure, propagate, and distribute among the people new and valuable seeds and plants.

(As amended Pub. L. 95–113, title XV, § 1502(a), Sept. 29, 1977, 91 Stat. 1021.)

AMENDMENTS

1977—Pub. L. 95–113 added references to aquaculture and human nutrition.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2204. General duties of Secretary; advisory functions; National rural development program, report to Congress

(a) The Secretary of Agriculture shall procure and preserve all information concerning agriculture, rural development, aquaculture, and human nutrition which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power; he shall collect new and valuable seeds and plants; shall test, by cultivation, the value of such of them as may require such tests; shall propagate such as may be worthy of propagation; and shall distribute them among agriculturists; and he shall advise the President, other members of his Cabinet, and the Congress on policies and programs designed to improve the quality of life for people living in the rural and nonmetropolitan regions of the Nation.

[*See main edition for text of* (b)]

(As amended Pub. L. 95–113, title XV, § 1502(b), Sept. 29, 1977, 91 Stat. 1021.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 added references to aquaculture and human nutrition.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2211a. Under Secretary of Agriculture for International Affairs and Commodity Programs; appointment

There is established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise such functions and perform such duties related to foreign agriculture and agricultural stabilization and conservation, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

(Pub. L. 95-501, title V, § 501(a), Oct. 21, 1978, 92 Stat. 1691.)

REDESIGNATION OF ASSISTANT SECRETARY OF AGRICULTURE FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

Section 501(c) of Pub. L. 95-501 provided that: "The designation of 'Assistant Secretary of Agriculture for International Affairs and Commodity Programs' shall not be used after the date of enactment of this Act [Oct. 21, 1978]."

§ 2217. Oaths, affirmations, and affidavits taken by officers, agents, or employees of Department; use and effect

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2218 of this title; title 38 section 4202.

§ 2220. Certain officials and employees of Department and others not subject to restriction on payment of compensation to Government officials and employees

The officials and the employees of the Department of Agriculture engaged in the activities described in section 450b of this title and paid in whole or in part out of funds contributed as provided therein, and the persons, corporations, or associations making contributions as therein provided, shall not be subject to the provisions of section 209 of title 18; nor shall any official or employee engaged in the cooperative activities of the Forest Service, or the persons, corporations, or associations contributing to such activities be subject to such section.

(July 24, 1919, ch. 26, 41 Stat. 270; Sept. 3, 1954, ch. 1263, § 5, 68 Stat. 1227.)

CODIFICATION

"Section 209 of title 18" was substituted for "section 1914 of title 18" on authority of section 2 of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 281 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1914 of title 18" for reference to the proviso in the Act of March 3, 1917 (5 U.S.C. 66).

§ 2240. Reimbursement of appropriation for salaries and compensation of employees in mechanical shops

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 4202.

§ 2254. Operations, maintenance and purchase of aircraft by Agricultural Research Service; construction and repair of buildings

REPEALED

Pub. L. 95-448, title I, § 101, Oct. 11, 1978, 92 Stat. 1074.

Pub. L. 95-97, title I, § 101, Aug. 12, 1977, 91 Stat. 811, 812.

§ 2266. Congressional reaffirmation of policy to foster and encourage family farms; annual report to Congress

(a) Congress specifically reaffirms the historical policy of the United States to foster and encourage the family farm system of agriculture in this country. Congress firmly believes that the maintenance of the family farm system of agriculture is essential to the social well-being of the Nation and the competitive production of adequate supplies of food and fiber. Congress further believes that any significant expansion of nonfamily owned large-scale corporate farming enterprises will be detrimental to the national welfare. It is neither the policy nor the intent of Congress that agricultural and agriculture-related programs be administered exclusively for family farm operations, but it is the policy and the express intent of Congress that no such program be administered in a manner that will place the family farm operation at an unfair economic disadvantage.

(b) In order that Congress may be better informed regarding the status of the family farm system of agriculture in the United States, the Secretary of Agriculture shall submit to Congress, not later than July 1 of each year, a written report containing current information on trends in family farm operations and comprehensive national and State-by-State data on nonfamily farm operations in the United States. The Secretary shall also include in each such report (1) information on how existing agricultural and agriculture-related programs are being administered to enhance and strengthen the family farm system of agriculture in the United States, (2) an assessment of how Federal laws may encourage the growth of nonfamily farm operations, and (3) such other information as the Secretary deems appropriate or determines would aid Congress in protecting, preserving, and strengthening the family farm system of agriculture in the United States.

(Pub. L. 95-113, title I, § 102, Sept. 29, 1977, 91 Stat. 918.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

STUDY OF IMPACT OF PROHIBITIONS ON PAYMENTS TO CERTAIN CORPORATIONS UNDER WHEAT, FEED GRAINS, COTTON, AND RICE PROGRAMS; REPORT BY JANUARY 1, 1979

Section 103 of Pub. L. 95-113 provided that: "In furtherance of the policy stated in section 102 of this Act [this section], the Secretary of Agriculture shall conduct a study and report to Congress no later than January 1, 1979, on the impact on participation in the wheat, feed grain, cotton, and rice programs and the production of such commodities in carrying out a statutory provision such as that included in the Food and Agriculture Act of 1977, as passed by the Senate on May 24, 1977 [see Short Title of 1977 Amendment note set out under section 1281 of this title], prohibiting the making of payments to certain corporations and other entities under such programs. The study shall, in addition assess the impact of extending the prohibition against making commodity program payments to tenants on land owned by such corporations and other entities which would be excluded from payments under such a provision. The study shall utilize, to the greatest extent possible, the information on commodity program payments compiled by the Agricultural Stabilization and Conservation Service in determining payment eligibility under section 101 of the Agricultural Act of 1970, as amended [section 1307 of this title], and section 101 of this Act [section 1308 of this title]. The Secretary may collect such other information as may be necessary to determine the impact of such a statutory provision and to identify the number and characteristics of producers that would be affected by such a provision."

§ 2267. Emergency feed program

(a) Implementation

Notwithstanding any other provision of law, the Secretary of Agriculture may implement an emergency feed program for assistance in the preservation and maintenance of livestock in any area of the United States, including Puerto Rico, Guam, and the Virgin Islands of the United States, where, because of flood, drought, fire, hurricane, earthquake, storm, or other natural disaster, the Secretary determines that an emergency exists.

(b) Conditions

The Secretary shall not provide assistance under this section to any person unless all of the following conditions created by the emergency are present:

(1) The person has suffered a substantial loss in the livestock feed normally produced on the farm for such persons' livestock;

(2) The person does not have sufficient feed for such person's livestock for the estimated period of the emergency; and

(3) The person is required to make feed purchases during the period of the emergency in quantities larger than such person would normally make.

(c) Reimbursement

Persons eligible for assistance under the program formulated under this section may be reimbursed for not to exceed 50 per centum of the cost of the feed purchased by such eligible persons during the period of emergency, as announced by the Secretary of Agriculture, or at such lower rate as may be established by the Secretary.

(d) Penalty for unauthorized disposition of feed

Any person who disposes of any feed for which such person is reimbursed under this section, in any manner other than as authorized by the Secretary, shall be subject to a penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose. In addition, such person shall be subject to a fine of not more than $10,000, or imprisonment for not more than one year, or both.

(e) Rules and regulations

The Secretary is authorized to issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

(f) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) Delegation of authority prohibited

Notwithstanding any other provision of law, the Secretary shall not delegate the authority to administer the emergency feed program to any other department, agency, or entity, public or private.

(Pub. L. 95-113, title XI, § 1105, Sept. 29, 1977, 91 Stat. 955.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427a of this title

§ 2268. Public lands; relinquishment

Notwithstanding any other provision of law, the Secretary of Agriculture may, whenever he considers it desirable, relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State. Relinquishment of legislative jurisdiction under this section may be accomplished (1) by filing with the Governor of the State concerned a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State may otherwise provide.

(Pub. L. 95-441, Oct. 10, 1978, 92 Stat. 1064.)

§ 2269. Gifts of property; acceptance and administration by Secretary of Agriculture; Federal tax law consideration; separate fund in Treasury; regulations

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the United States Department of Agriculture or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the

United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture. The Secretary of Agriculture may promulgate regulations to carry out the provisions of this section.

(Pub. L. 95–442, Oct. 10, 1978, 92 Stat. 1065.)

CHAPTER 55A—DEPARTMENT OF AGRICULTURE ADVISORY COMMITTEES [NEW]

Sec.
2281. Congressional declaration of purpose.
2282. Definitions.
2283. Establishment of advisory committees.
2284. Additional duties of Secretary of Agriculture.
2285. Membership on advisory committees.
(a) Maximum length.
(b) Simultaneous service prohibited.
(c) Balanced membership.
(d) Conflict of interest.
(e) Service by more than one officer or employee of any corporation or other entity.
2286. Advisory committee charter requirements; operating costs.
2287. Annual report.
(a) Required contents.
(b) Transmittal to Secretary and Congress.
2288. Budget prohibitions.
(a) Excessive expenditures.
(b) Approval of overruns.
2289. Termination of advisory committees.
(a) Findings requiring termination.
(b) Reestablishment of terminated committees.

§ 2281. Congressional declaration of purpose

The purposes of this chapter are to—

(1) require strict financial and program accounting by advisory committees of the Department of Agriculture;

(2) assure balance and objectivity in the membership of such advisory committees; and

(3) prevent the formation or continuation of unnecessary advisory committees by the Department of Agriculture.

(Pub. L. 95–113, title XVIII, § 1801, Sept. 29, 1977, 91 Stat. 1041.)

EFFECTIVE DATE

Chapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2282. Definitions

When used in this chapter—

(1) the term "Secretary" means the Secretary of Agriculture of the United States;

(2) the term "Department of Agriculture" means the United States Department of Agriculture; and

(3) the term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof which is established or utilized by the Department of Agriculture in the interest of obtaining advice or recommendations for the President or the Department of Agriculture, except that such term excludes any committee which (A) is composed wholly of full-time officers or employees of the Federal Government, (B) is established by statute or reorganization plan, or (C) is established by the President.

(Pub. L. 95–113, title XVIII, § 1802, Sept. 29, 1977, 91 Stat. 1041.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2287 of this title.

§ 2283. Establishment of advisory committees

No advisory committee shall be established by the Department of Agriculture unless the Secretary determines that—

(1) the advisory committee will serve an essential function;

(2) the proposed membership for the advisory committee represents a balance of differing views;

(3) the proposed work and goals of the advisory committee cannot be carried out by an existing advisory committee;

(4) the proposed budget of the advisory committee reflects the reasonably anticipated costs of performing the function of the advisory committee; and

(5) the establishment of the advisory committee is in the public interest.

(Pub. L. 95–113, title XVIII, § 1803, Sept. 29, 1977, 91 Stat. 1041.)

§ 2284. Additional duties of Secretary of Agriculture

In addition to any responsibilities which the Secretary has under the Federal Advisory Committee Act, as amended, or other provision of law with respect to advisory committees, the Secretary shall ensure that all advisory committees—

(1) comply with all provisions of law relating to advisory committees, including this title;

(2) submit all reports and recommendations in written form;

(3) retain a written record of any responses made by the Department of Agriculture to the recommendations of the advisory committees; and

(4) do not exceed their proposed budgets by 10 per centum or $500, whichever is greater, without receiving prior approval for such additional expenditures from the Secretary as provided under section 2288 of this title.

(Pub. L. 95–113, title XVIII, § 1804, Sept. 29, 1977, 91 Stat. 1041.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, as amended, referred to in provision preceding par. (1), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 2285. Membership on advisory committees

(a) Maximum length

No person other than an officer or employee of the Department of Agriculture shall serve on an advisory committee for more than six consecutive years.

(b) Simultaneous service prohibited

No person shall simultaneously serve on more than one advisory committee unless authorized by the Secretary.

(c) Balanced membership

All advisory committees shall, to the extent practicable, have—

(1) a balanced membership reflecting the differing views of the groups substantially affected by the matters to be considered by such advisory committees; and

(2) ethnic, racial, and sexual balance.

(d) Conflict of interest

Each member of an advisory committee shall use his or her full name and principal place of residence, and shall provide the Secretary with (1) the names of persons or companies by whom he or she is employed, (2) his or her principal occupation, and (3) his or her major sources of income. Such information shall be forwarded to the appropriate committees of Congress having legislative jurisdiction or oversight responsibility with respect to the agency within the Department of Agriculture which established the advisory committee, as part of the annual report provided for in section 2287 of this title.

(e) Service by more than one officer or employee of any corporation or other entity

Not more than one officer or employee of any corporation or other entity, including all subsidiaries and affiliates thereof, shall serve on the same advisory committee at any one time, unless excepted by the Secretary.

(Pub. L. 95–113, title XVIII, § 1805, Sept. 29, 1977, 91 Stat. 1042.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2287 of this title.

§ 2286. Advisory committee charter requirements; operating costs

In addition to complying with other requirements of section 9(c)(G) of the Federal Advisory Committee Act, each advisory committee shall provide the following information to the Secretary when it files its charter—

(1) a statement that the estimate of annual operating costs developed pursuant to section 9(c)(G) of the Federal Advisory Committee Act is inclusive of all private and public moneys to be spent by or on behalf of the advisory committee; and

(2) specific estimates of—

(A) the amount of Federal funds that will be used annually to support directly or indirectly the operation of the advisory committee;

(B) the dollar value of the time and the expenses that will be incurred annually by Federal agencies and employees in assisting in the operation of the advisory committee;

(C) the travel expenses, including per diem or subsistence in lieu thereof, that will be incurred annually by advisory committee members and Department of Agriculture employees in attending meetings of the advisory committee, including travel performed in support of the advisory committee's operation; and

(D) all expenses that will be paid annually by sources outside the Government, including, but not limited to, expenses borne by the committee members or other individuals, such as their employers, corporations, organizations, associations, or labor organizations.

(Pub. L. 95–113, title XVIII, § 1806, Sept. 29, 1977, 91 Stat. 1042.)

REFERENCES IN TEXT

Section 9(c)(G) of the Federal Advisory Committee Act, referred to in provision preceding par. (1) and in par. (1), is section 9(c)(G) of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 2287. Annual report

(a) Required contents

In addition to the other requirements of section 10 of the Federal Advisory Committee Act, as amended, each advisory committee within the Department of Agriculture, including all advisory committees as defined in section 2282(3) of this title and all other advisory committees within the Department of Agriculture established by statute or reorganization plan or established by the President, shall prepare, at least annually, a written report which shall contain—

(1) a description of all recommendations and suggestions it has provided to any executive department, agency, or other authority of the United States, or any State, or any individual during the immediately preceding year;

(2) a description of the response it has made during the immediately preceding year to specific recommendations and suggestions from any executive department, agency, or other authority of the United States, or any State, or any individual;

(3) an itemization, in detail, of all costs incurred by it during the immediately preceding year, including, but not limited to—

(A) public money spent on transportation for advisory committee members and other Department of Agriculture employees engaged in the business of the advisory committee, including individuals who are not members of the advisory committee;

(B) per diem allowances for temporary duty expenses for advisory committee members and for Department of Agriculture employees engaged in the work of the advisory committee who are not members of the advisory committee;

(C) salaries and consultant fees paid to the advisory committee members, guest presenters, or other advisors or assistants to the advisory committee at meetings of the advisory committee;

(D) the value of Department of Agriculture staff support time spent on the business of the advisory committee;

(E) the cost of leasing, renting, or purchasing equipment, meeting rooms, and supplies for the advisory committee;

(F) any additional cost involved in meetings of the advisory committee, including receptions, luncheons, dinners, and entertainment;

(G) miscellaneous expenses, with a separate category for any major expense item peculiar to the advisory committee; and

(H) such other expenses or cost items as may be relevant to full disclosure of the costs of operating the advisory committee; and

(4) a list of the members of the advisory committee and, where applicable, the background information on each member required to be submitted under section 2285 of this title.

(b) Transmittal to Secretary and Congress

The report required by this section shall be transmitted to the Secretary, the appropriate committees of Congress having legislative jurisdiction or oversight with respect to the agency within the Department of Agriculture which established the advisory committee, and the Library of Congress. A copy of such report shall also be available at the central location of each such advisory committee's files.

(Pub. L. 95–113, title XVIII, § 1807, Sept. 29, 1977, 91 Stat. 1043.)

REFERENCES IN TEXT

Section 10 of the Federal Advisory Committee Act, as amended, referred to in subsec. (a), is section 10 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2285 of this title.

§ 2288. Budget prohibitions

(a) Excessive expenditures

No advisory committee shall expend funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, unless it files a request therefor with the Secretary prior to any such expenditure which shall specify the use to which such funds will be put together with a comprehensive explanation as to why such expenditures were not known at the time of the annual estimate of operating costs, and the Secretary approves such request.

(b) Approval of overruns

The Secretary shall not approve the release of any funds under the Secretary's control to an advisory committee for any such overrun expenditure unless the Secretary finds that such funds are essential to the performance of the advisory committee's mission and the need for such funds could not have been reasonably anticipated.

(Pub. L. 95–113, title XVIII, § 1808, Sept. 29, 1977, 91 Stat. 1044.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2284, 2289 of this title.

§ 2289. Termination of advisory committees

(a) Findings requiring termination

The Secretary shall terminate any advisory committee upon a finding that any such advisory committee—

(1) has expended funds in excess of its estimated annual operating costs by more than 10 per centum or $500, whichever is greater, without having obtained the prior approval of the Secretary pursuant to the provisions of section 2288 of this title;

(2) has failed to file in a timely manner all reports required under the provisions of the Federal Advisory Committee Act, as amended, or this chapter;

(3) has failed to meet for two consecutive years;

(4) has failed to issue any written reports other than reports required under the Federal Advisory Committee Act, as amended, and this chapter for two consecutive years;

(5) has failed to comply with any provision of the Federal Advisory Committee Act, as amended, or this chapter;

(6) is responsible for functions which otherwise would be or should be performed by Federal employees; or

(7) does not serve or has ceased to serve an essential public function.

(b) Reestablishment of terminated committees

Any advisory committee terminated under the provisions of this section may be reestablished only under the procedures set out in section 9 of the Federal Advisory Committee Act. If an advisory committee terminated under the provisions of this section is reestablished, all records, reports, and the complete files of such advisory committee so terminated shall be maintained together with the files of such reestablished advisory committee.

(Pub. L. 95–113, title XVIII, § 1809, Sept. 29, 1977, 91 Stat. 1044.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, as amended, referred to in subsecs. (a) and (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 59—RURAL FIRE PROTECTION, DEVELOPMENT, AND SMALL FARM RESEARCH AND EDUCATION

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

Sec.

2669. Pilot projects for production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products [New].
(a) Formulation and execution of program.
(b) Loan guarantees.
(c) Conditions.
(d) Long-term contracts to supply agricultural commodities to loan recipients.

Sec.
(e) Commodity Credit Corporation stocks as supply sources; outside purchases.
(f) Commodity Credit Corporation.
2670. Annual report to Congress [New].

SUBCHAPTER I—RURAL COMMUNITY FIRE PROTECTION

§§ 2651 to 2654. Repealed. Pub. L. 95–313, § 13(a)(6), July 1, 1978, 92 Stat. 374

Section 2651, Pub. L. 92–419, title IV, § 401, Aug. 30, 1972, 86 Stat. 670; Pub. L. 91–524, title VIII, § 816(a), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240, related to purpose and findings for provisions relating to rural community fire protection assistance.

Section 2652, Pub. L. 92–419, title IV, § 402, Aug. 30, 1972, 86 Stat. 670; Pub. L. 95–113, title XV, § 1504, Sept. 29, 1977, 91 Stat. 1021, related to terms and conditions, funding requirements, etc., for cooperative agreements with State officials.

Section 2653, Pub. L. 92–419, title IV, § 403, Aug. 30, 1972, 86 Stat. 671, related to reporting requirements for the Secretary of Agriculture.

Section 2654, Pub. L. 92–419, title IV, § 404, Aug. 30, 1972, 86 Stat. 671; Pub. L. 91–524, title VIII, § 816(b), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240, and amended Pub. L. 95–113, title XV, § 1505, Sept. 29, 1977, 91 Stat. 1021, related to authorization of appropriations for assistance.

EFFECTIVE DATE OF REPEAL

Sections 2651 to 2654 repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95–313, set out as an Effective Date note under section 2101 of Title 16, Conservation.

SUBCHAPTER II—RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EDUCATION

§ 2662. Programs authorization; cooperation and coordination with colleges and universities

The Secretary of Agriculture (hereafter referred to as the "Secretary") is directed and authorized to conduct in cooperation and in coordination with colleges and universities the following programs to carry out the purposes of this subchapter.

[*See main edition for text of* (a) *and* (b)]

(c) Small farm research

Small farm research programs shall consist of programs of research to develop new approaches for initiating and upgrading small farmer operations through management techniques, agricultural production techniques, farm machinery technology, new products, new marketing techniques, and small farm finance.

(d) Small farm extension

Small farm extension programs shall consist of extension programs to improve operations of small farmers using, to the maximum extent practicable, paraprofessional personnel to work with small farmers on an intensive basis to initiate and improve management techniques, agricultural production techniques, farm machinery technology, marketing techniques, and small farm finance, and to increase utilization by small farmers of existing services offered by the United States Department of Agriculture and other public and private agencies and organizations.

(As amended Pub. L. 95–113, title XIV, § 1440, Sept. 29, 1977, 91 Stat. 1005.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95–113, § 1440(1), substituted "Small farm research programs shall consist of programs of research to develop new approaches for initiating and upgrading small farmer operations through management techniques, agricultural production techniques, farm machinery technology, new products, new marketing techniques, and small farm finance" for "Small farm extension and research and development programs shall consist of extension and research programs with respect to new approaches for small farms in management, agricultural production techniques, farm machinery technology, new products, cooperative agricultural marketing, and distribution suitable to the economic development of family size farm operations."

Subsec. (d). Pub. L. 95–113, § 1440(2), added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2663, 2664, 2670 of this title.

§ 2663. Program moneys

(a) Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this subchapter, except subsections (c) and (d) of section 2662 of this title, not to exceed $10,000,000 for the fiscal year ending June 30, 1974, not to exceed $15,000,000 for the fiscal year ending June 30, 1975, not to exceed $20,000,000 for the fiscal year ending June 30, 1976, not to exceed $5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed $20,000,000 for each of the three fiscal years during the period beginning October 1, 1976, and ending September 30, 1979.

[*See main edition for text of* (b)]

(c) Authorization of appropriations for small farm research and small farm extension

There are authorized to be appropriated to carry out the purposes of subsections (c) and (d) of section 2662 of this title not to exceed $20,000,000 for each of the fiscal years ending September 30, 1978, and September 30, 1979.

(d) Distribution of appropriated funds

Such sums as Congress shall appropriate to carry out the purposes of this subchapter pursuant to subsection (c) of this section shall be distributed by the Secretary as follows:

(1) 4 per centum to be used by the Secretary for Federal administration;

(2) 19 per centum to be allocated among the several States to carry out the programs authorized in subsection (c) of section 2662 of this title in such amounts as determined by the Secretary; and

(3) 77 per centum to be allocated among the several States to carry out the programs authorized in subsection (d) of section 2662 of this title in such amounts as determined by the Secretary.

(e) Use of funds

Funds appropriated under this subchapter may be used to pay salaries and other expenses of personnel employed to carry out the functions authorized by this subchapter, to obtain necessary supplies, equipment, services, and rent, repair, and maintenance of other facilities needed, but may not be used to purchase or construct buildings.

(f) Contingencies for payment of funds; fiscal year availability; budget and accounting

Payment of funds to any State for programs authorized under section 2662(a), (b), (c), and (d) of this title shall be contingent upon the Secretary's approval of an annual plan and budget for programs conducted under each part and compliance with such regulations as the Secretary may issue under this subchapter. Funds shall be available for use by the State in the fiscal year for which appropriated and the next fiscal year following the year for which appropriated. Funds shall be budgeted and accounted for on such forms and at such times as the Secretary shall prescribe.

(g) Financing programs at universities other than universities responsible for administration of programs

Funds provided to each State under this subchapter may be used to finance programs through or at private and publicly supported colleges and universities other than the university responsible for administering the programs authorized by this subchapter.

(As amended Pub. L. 95-113, title XIV, § 1441, Sept. 29, 1977, 91 Stat. 1006.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113, § 1441(1), added ", except subsections (c) and (d) of section 2662 of this title," after "to carry out the purposes of this subchapter".

Subsec. (c). Pub. L. 95-113, § 1441(2), (3), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 95-113, § 1441(2), (3), added subsec. (d). Former subsec. (d) redesignated (f) and amended.

Subsec. (e). Pub. L. 95-113, § 1441(2), redesignated former subsec. (c) as (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 95-113, § 1441(2), (4), redesignated former subsec. (d) as (f) and, in subsec. (f) as so redesignated, inserted reference to subsec. (d) of section 2662 of this title.

Subsec. (g). Pub. L. 95-113, § 1441(2), redesignated former subsec. (e) as (g).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2667. Definitions

For the purposes of this subchapter—

[See main edition for text of (a) and (b)]

(c) "Small farmer" means any farmer with gross sales from farming of $20,000 or less per year.

(As amended Pub. L. 95-113, title XIV, § 1442, Sept. 29, 1977, 91 Stat. 1006.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-113 added subsec. (c).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 2669. Pilot projects for production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products

(a) Formulation and execution of program

The Secretary is authorized and directed to formulate and carry out a pilot program for the production and marketing of industrial hydrocarbons derived from agricultural commodities and forest products for the purpose of stabilizing and expanding the market for such commodities and products and expanding the Nation's supply of industrial hydrocarbons.

(b) Loan guarantees

The Secretary shall provide for four pilot projects for the production of industrial hydrocarbons and alcohols from agricultural commodities and forest products by guaranteeing loans, not to exceed $15,000,000 per each such project, to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for a term not to exceed twenty years at a rate of interest agreed upon by the borrower and lender.

(c) Conditions

No loan may be guaranteed under this section unless (1) research indicates the total energy content of the products and byproducts to be manufactured by the loan applicant will exceed the total energy input from fossil fuels used in the manufacture of such products and byproducts, and (2) such other conditions as the Secretary deems appropriate to achieve the purposes of this section are met.

(d) Long-term contracts to supply agricultural commodities to loan recipients

In order to assure that the recipients of loans made under this section have a dependable supply of agricultural commodities at a stable price for use in the pilot projects provided for in this section, the Secretary is authorized to enter into long-term contracts, not exceeding five years, with the recipients of such loans. Such contracts shall guarantee the recipients of such loans a specified quantity of agricultural commodities annually at mutually agreed upon prices, but the agricultural commodities shall not be sold under any such contracts at less than the price support level prescribed for the commodity concerned unless the commodities are out of condition, unstorable, or samplegrade or lower, as prescribed in Department of Agriculture standards.

(e) Commodity Credit Corporation stocks as supply sources; outside purchases

The Secretary shall supply from Commodity Credit Corporation stocks or, to such extent or in such amounts as are provided in appropriation Acts, purchase such quantities of agricultural commodities as may be necessary to comply with the terms of agreements entered into under this section.

(f) Commodity Credit Corporation

The provisions of this section shall be carried out through the Commodity Credit Corporation.

(Pub. L. 92-419, title V, § 509, as added Pub. L. 95-113, title XIV, § 1420, Sept. 29, 1977, 91 Stat. 998.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 2670. Annual report to Congress

The Secretary shall evaluate annually the effectiveness of the programs established under subsections (c) and (d) of section 2662 of this title and make a report to Congress not later than February 1 of each year on that evaluation and the operation of the programs during the preceding fiscal year.

(Pub. L. 92-419, title V, § 510, as added Pub. L. 95-113, title XIV, § 1443, Sept. 29, 1977, 91 Stat. 1006.)

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

CHAPTER 62—BEEF RESEARCH AND INFORMATION

§ 2908. Referendum and cattle producer approval of orders; reimbursement of expenses of Secretary; procedural requirements; bonding requirements; definition

The Secretary shall conduct a referendum as soon as practicable among producers who at any time, during a consecutive twelve-month representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the production of cattle for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. The Secretary shall establish a procedure whereby all known cattle producers are notified of the referendum and the time and place of balloting and qualified producers may register with the Agriculture Stabilization and Conservation Service in person or by mail to vote in such a referendum during a period ending not less than ten days prior to the date of the referendum. No order issued pursuant to this chapter shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of the registered producers, and (2) that the issuance of such order is approved or favored by a majority of the producers voting in such referendum. The Secretary shall be reimbursed from assessments collected by the Beef Board for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the Courts determine a recount and retabulation of results is appropriate. Prior to the holding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

(As amended Pub. L. 95-334, title III, § 302, Aug. 4, 1978, 92 Stat. 433.)

AMENDMENTS

1978—Pub. L. 95-334 substituted "a majority" for "not less than two-thirds".

CHAPTER 64—AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 sections 1647, 1676.

SUBCHAPTER I—FINDINGS, PURPOSES, AND DEFINITIONS

§ 3101. Congressional findings

Congress finds that—

(1) the Federal Government of the United States has provided funding support for agricultural research and extension for many years in order to promote and protect the general health and welfare of the people of the United States, and this support has significantly contributed to the development of the Nation's agricultural system;

(2) the agencies conducting such federally supported research were established at different times in response to different and specific needs and their work is not fully coordinated;

(3) these agencies have only been partially successful in responding to the needs of all persons affected by their research, and useful information produced through such federally supported research is not being efficiently transferred to the people of the United States;

(4) expanded agricultural research and extension are needed to meet the rising demand for food and fiber caused by increases in worldwide population and food shortages due to short-term, localized, and adverse climatic conditions;

(5) increased research is necessary to alleviate inadequacies of the marketing system (including storage, transportation, and distribution of agricultural and forest products) which have impaired United States agricultural production and utilization;

(6) advances in food and agricultural sciences and technology have become increasingly limited by the concentration upon the thorough development and exploitation of currently known scientific principles and technological approaches at the expense of more fundamental research, and a strong research effort in the basic sciences is necessary to achieve breakthroughs in knowledge that can support new and innovative food and agricultural technologies;

(7) Federal funding levels for agricultural research and extension in recent years have not been commensurate with needs stemming from changes in United States agricultural practices and the world food and agricultural situation;

(8) new Federal initiatives are needed in the areas of—

(A) research to find alternatives to technologies based on fossil fuels;

(B) research and extension on human nutrition and food consumption patterns in order to improve the health and vitality of the people of the United States;

(C) research to find solutions to environmental problems caused by technological changes in food and agricultural production;

(D) aquacultural research and extension;

(E) research and extension directed toward improving the management and use of the Nation's natural and renewable resources, in order to meet the increased demand for forest products, conserve water resources (through irrigation management, tail water reuse, desalination, crop conversion, and other water conservation techniques), conserve soil resources, and properly manage rangelands;

(F) improving and expanding the research and extension programs in home economics;

(G) extension programs in energy conservation;

(H) extension programs in forestry and natural resources, with special emphasis to be given to improving the productivity of small private woodlands, modernizing wood harvesting and utilization, developing and disseminating reliable multiple-use resource management information to all landowners and consumers, and the general public, wildlife, watershed, and recreational management, and cultural practices (including reforestation, protection, and related matters);

(I) research on climate, drought, and weather modification as factors in food and agricultural production;

(J) more intensive agricultural research and extension programs oriented to the needs of small farmers and their families and the family farm system, which is a vital component of the agricultural production capacity of this country;

(K) research to expand export markets for agricultural commodities;

(L) development and implementation, through research, of more efficient, less wasteful, and environmentally sound methods of producing, processing, marketing, and utilizing food, fiber, waste products, other nonfood agricultural products, and forest and rangeland products;

(M) expanded programs of animal disease and health care research and extension;

(N) research to develop new crops, in order to expand our use of varied soils and increase the choice of nutritional and economically viable crops available for cultivation; and

(O) investigation and analysis of the practicability, desirability, and feasibility of using organic waste materials to improve soil tilth and fertility, and extension programs to disseminate practical information resulting from such investigations and analyses; and

(9) the existing agricultural research system consisting of the Federal Government, the land-grant colleges and universities, other colleges and universities engaged in agricultural research, the agricultural experiment stations, and the private sector constitute an essential national resource which must serve as the foundation for any further strengthening of agricultural research in the United States.

(Pub. L. 95-113, title XIV, § 1402, Sept. 29, 1977, 91 Stat. 981.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SHORT TITLE

Section 1401 of title XIV of Pub. L. 95-113 provided that: "This title [enacting this chapter and sections 2669 and 2670 of this title, amending sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealing section 390k of this title] may be cited as the 'National Agricultural Research, Extension, and Teaching Policy Act of 1977'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3102 of this title

§ 3102. Congressional declaration of purpose

The purposes of this chapter are to—

(1) establish firmly the Department of Agriculture as the lead agency in the Federal Government for the food and agricultural sciences, and to emphasize that agricultural research, extension, and teaching are distinct missions of the Department of Agriculture;

(2) undertake the special measures set forth in this chapter to improve the coordination and planning of agricultural research, identify needs and establish priorities for such research, assure that high priority research is given adequate funding, assure that national agricultural research, extension, and teaching objectives are fully achieved, and assure that the results of agricultural research are effectively communicated and demonstrated to farmers, processors, handlers, consumers, and all other users who can benefit therefrom;

(3) increase cooperation and coordination in the performance of agricultural research by Federal departments and agencies, the States, State agricultural experiment stations, colleges and universities, and user groups;

(4) enable the Federal Government, the States, colleges and universities, and others to implement needed agricultural research, extension, and teaching programs, including the initiatives specified in section 3101(8) of this title, through the establishment of new programs and the improvement of existing programs, as provided for in this chapter;

(5) establish a new program of grants for high-priority agricultural research to be awarded on the basis of competition among scientific research workers and all colleges and universities;

(6) establish a new program of grants for facilities and instrumentation used in agricultural research; and

(7) establish a new program of education grants and fellowships to strengthen training and research programs in the food and agricultural sciences, to be awarded on the basis of competition.

(Pub. L. 95-113, title XIV, § 1403, Sept. 29, 1977, 91 Stat. 983.)

REFERENCES IN TEXT

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3103. Definitions

When used in this chapter—

(1) the term "Advisory Board" means the National Agricultural Research and Extension Users Advisory Board;

(2) the term "agricultural research" means research in the food and agricultural sciences;

(3) the term "aquaculture" means the propagation and rearing of aquacultural species, including, but not limited to, any species of finfish, mollusk, or crustacean (or other aquatic invertebrate), amphibian, reptile, or aquatic plant, in controlled or selected environments;

(4) the terms "college" and "university" mean an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association;

(5) the term "cooperative extension services" means the organizations established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914 (38 Stat. 372-374, as amended; 7 U.S.C. 341-349), and section 209(b) of the Act of October 26, 1974 (88 Stat. 1428, as amended; D.C. Code, sec. 31-1719(b));

(6) the term "Department of Agriculture" means the United States Department of Agriculture;

(7) the term "extension" means the informal education programs conducted in the States in cooperation with the Department of Agriculture;

(8) the term "food and agricultural sciences" means sciences relating to food and agriculture in the broadest sense, including the social, economic, and political considerations of—

(A) agriculture, including soil and water conservation and use, the use of organic waste materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

(B) the processing, distributing, marketing, and utilization of food and agricultural products;

(C) forestry, including range management, production of forest and range products, multiple use of forest and range lands, and urban forestry;

(D) aquaculture;

(E) home economics, human nutrition, and family life; and

(F) rural and community development;

(9) the term "Joint Council" means the Joint Council on Food and Agricultural Sciences;

(10) the term "land-grant colleges and universities" means those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute;

(11) the term "Secretary" means the Secretary of Agriculture of the United States;

(12) except as provided in subchapter VII of this chapter, the term "State" means any one of the fifty States, Puerto Rico, Guam, the District of Columbia, and the Virgin Islands of the United States;

(13) the term "State agricultural experiment stations" means those institutions eligible to receive funds under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i); and

(14) the term "teaching" means the formal classroom and laboratory instruction and training in the food and agricultural sciences conducted at colleges and universities and leading to baccalaureate and other recognized degrees.

(Pub. L. 95–113, title XIV, § 1404, Sept. 29, 1977, 91 Stat. 983.)

REFERENCES IN TEXT

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Smith-Lever Act of May 8, 1914, referred to in par. (5), is act May 18, 1914, ch. 79, 38 Stat. 372, as amended, which is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

Act of July 2, 1862, 12 Stat. 503, as amended, referred to in par. (10), is popularly known as the "Morrill Act" and also as the "First Morrill Act", and is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under 301 of this title and Tables.

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in par. (10), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Subchapter VII of this chapter, referred to in par. (12), read in the original, "subtitle H", meaning Pub. L. 95–113, title XIV, subtitle H, §§ 1446–1457, Sept. 29, 1977, 91 Stat. 1011, which enacted subchapter VII (§ 3241 et seq.) of this chapter and amended sections 341, 342, 427, 1923, and 1942 of this title. For complete classification of such Subtitle H to the Code, see Tables.

The Act of March 2, 1887, referred to in par. (13), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

SUBCHAPTER II—COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

§ 3121. Responsibilities of Secretary and Department of Agriculture

The Department of Agriculture is designated as the lead agency of the Federal Government for agricultural research (except with respect to the biomedical aspects of human nutrition concerned with diagnosis or treatment of disease), extension, and teaching in the food and agricultural sciences, and the Secretary, in carrying out the Secretary's responsibilities, shall—

(1) establish jointly with the Secretary of Health, Education, and Welfare procedures for coordination with respect to nutrition research in areas of mutual interest;

(2) keep informed of developments in, and the Nation's need for, research, extension, teaching, and manpower development in the food and agricultural sciences and represent such need in deliberations within the Department of Agriculture, elsewhere within the executive branch of the United States Government, and with the several States and their designated land-grant colleges and universities, other colleges and universities, agricultural and related industries, and other interested institutions and groups;

(3) coordinate all agricultural research, extension, and teaching activity conducted or financed by the Department of Agriculture and, to the maximum extent practicable, by other agencies of the executive branch of the United States Government;

(4) take the initiative in establishing coordination of State-Federal cooperative agricultural research, extension, and teaching programs, funded in whole or in part by the De-

partment of Agriculture in each State, through the administrative heads of land-grant colleges and universities and the State directors of agricultural experiment stations and cooperative extension services, and other appropriate program administrators;

(5) consult the Joint Council, Advisory Board, and other appropriate advisory committees of the Department of Agriculture in the formulation of basic policies, goals, strategies, and priorities for programs of agricultural research, extension, and teaching;

(6) report (as a part of the Department of Agriculture's annual budget submissions) to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations actions taken to support the recommendations of the Advisory Board;

(7) establish appropriate review procedures to assure that agricultural research projects are timely and properly reported and published and that there is no unnecessary duplication of effort or overlapping between agricultural research units;

(8) establish Federal or cooperative multidisciplinary research teams on major agricultural research problems with clearly defined leadership, budget responsibility, and research programs; and

(9) in order to promote the coordination of agricultural research of the Department of Agriculture, conduct a continuing inventory of ongoing and completed research projects being conducted within or funded by the Department.

(Pub. L. 95-113, title XIV, § 1405, Sept. 29, 1977, 91 Stat. 985.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3122. Joint Council on Food and Agricultural Sciences

(a) Establishment within Department of Agriculture

The Secretary shall establish within the Department of Agriculture a committee to be known as the Joint Council on Food and Agricultural Sciences which shall have a term of five years.

(b) Membership

The Joint Council shall be composed of representatives from the Department of Agriculture and those of its agencies with significant research and extension responsibilities, the Office of Science and Technology Policy, the land-grant colleges and universities, State agricultural experiment stations, State cooperative extension services, and those colleges and universities, other public and private institutions, producers, and representatives of the public who are interested in and have a potential to contribute, as determined by the Secretary, to the formulation of national policy in the food and agricultural sciences. The Joint Council shall be jointly chaired by the Assistant Secretary of Agriculture responsible for research, extension, and teaching, and a person to be elected from among the non-Federal membership of the Joint Council.

(c) Meetings

The Joint Council shall meet at least once during each three-month period. At least one meeting each year shall be a combined meeting with the Advisory Board.

(d) Responsibilities

(1) The primary responsibility of the Joint Council shall be to foster coordination of the agricultural research, extension, and teaching activities of the Federal Government, the States, colleges and universities, and other public and private institutions and persons involved in the food and agricultural sciences.

(2) The Joint Council's responsibilities shall also be to—

(A) provide a forum for the interchange of information among the organizations represented by the members of the Joint Council that will assure improved awareness among these organizations concerning the agricultural research, extension, and teaching programs, results, and directions of each organization;

(B) analyze and evaluate the economic, environmental, and social impacts of agricultural research, extension, and teaching programs conducted in the United States and determine high priority agricultural research areas, and submit annual reports identifying such high priority research areas to the Secretary;

(C) develop and review the effectiveness of a system, for use by the Secretary, of compiling, maintaining, and disseminating information about each federally supported agricultural research or extension project and, to the maximum extent possible, information about private agricultural research and extension projects conducted by colleges and universities, foundations, contract research groups, businesses, and others. Information about private agricultural research and extension projects shall not be included in this system unless they are partially or entirely funded by the Federal Government or the organizations sponsoring the projects agree to the inclusion of information about such projects;

(D) assist the parties in developing, reviewing, and evaluating memoranda of understanding or other documents that detail the terms and conditions between the Secretary and the participants in agricultural research, extension, and teaching programs under this Act and other Acts;

(E) assist the Secretary in carrying out the responsibilities assigned to the Secretary under this chapter through planning and coordination efforts in the food and agricultural sciences that utilize an effective system of regional and national planning, and by the development of recommendations and reports describing current and long-range needs, priorities, and goals in the food and agricultural sciences and means to achieve these goals;

(F) develop, and review the effectiveness of, guidelines for use by the Secretary in making competitive grants under section 450i(b) of this title; and

(G) prepare and submit to the Secretary, not later than December 31 of each year, a statement of recommendations which shall include—

(i) the Joint Council's recommendations as to unified national, regional, or interstate agricultural research, extension, or teaching programs to be implemented during the following fiscal year, delineating suggested areas of responsibility for Federal and State agencies in carrying out such programs, and the overall planning, evaluation, coordination, and support necessary for such programs, and

(ii) a summary of agricultural research, extension, and teaching achievements made during, and the status of ongoing projects as of the end of, the prior fiscal year, with respect to the programs conducted by the organizations represented by the members of the Joint Council.

Minority views, if timely submitted, shall be included in the submission. The Secretary shall submit copies of the statement to the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, and the Advisory Board.

(Pub. L. 95-113, title XIV, § 1407, Sept. 29, 1977, 91 Stat. 986.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(2)(D), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in subsec. (d)(2)(E), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3125 of this title.

§ 3123. National Agricultural Research and Extension Users Advisory Board

(a) Establishment within Department of Agriculture

The Secretary shall establish within the Department of Agriculture a board to be known as the National Agricultural Research and Extension Users Advisory Board which shall have a term of five years.

(b) Membership

The Advisory Board shall be composed of the following twenty-one members to be appointed by the Secretary—

(1) four members representing producers of agricultural commodities, forest products, and aquacultural products,

(2) four members representing consumer interests,

(3) two members representing farm suppliers and food and fiber processors,

(4) two members representing food marketing interests,

(5) two members representing environmental interests,

(6) one member engaged in rural development work,

(7) two members engaged in human nutrition work,

(8) one member representing animal health interests,

(9) one member engaged in transportation of food and agricultural products to domestic or foreign markets,

(10) one member representing labor organizations primarily concerned with the production, processing, distribution, or transportation of food and agricultural products, and

(11) one member representing private sector organizations involved in development programs and issues in developing countries.

(c) Chairman; vice-chairman

The Advisory Board shall select a chairman and vice-chairman from its membership, at its first meeting each year, who shall serve in those positions for a term of one year.

(d) Meetings

The Advisory Board shall meet at least once during each four-month period. At least one meeting each year shall be a combined meeting with the Joint Council.

(e) Panels

The Advisory Board is authorized to establish such panels as it deems appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in meeting its responsibilities. Members of such panels may include members of the Advisory Board, Advisory Board staff members, individuals from the Department of Agriculture and other departments and agencies of the Federal Government, and individuals from the private sector who have expertise in the subject to be examined by the panel.

(f) Responsibilities

(1) The Advisory Board shall have general responsibility for preparing independent advisory opinions on the food and agricultural sciences.

(2) The Advisory Board shall have the specific responsibilities for—

(A) reviewing the policies, plans, and goals of programs within the Department of Agriculture involving the food and agricultural sciences, and related programs in other Federal and State departments and agencies and in the colleges and universities developed by the Secretary under this chapter;

(B) reviewing and assessing the extent of agricultural research and extension being conducted by private foundations and businesses, and the relationships of such research and extension to federally supported agricultural research and extension;

(C) reviewing and providing consultation to the Secretary on national policies, priorities, and strategies for agricultural research and extension for both the short and long term;

(D) assessing the overall adequacy of, and making recommendations to the Secretary

with regard to, the distribution of resources and the allocation of funds authorized by this chapter;

(E) preparing and submitting to the Secretary, not later than October 31 of each year, a statement of recommendations as to allocations of responsibilities and levels of funding among federally supported agricultural research and extension programs, which shall include a review and an assessment of the allocation of funds for agricultural research and extension made for the preceding fiscal year by the organizations represented on the Joint Council. Minority views, if timely submitted, shall be included in the submission. The Secretary shall submit copies of the statement to the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, and the Joint Council; and

(F) not later than March 1 of each year submitting a report on its appraisal of the President's proposed budget for the food and agricultural sciences for the fiscal year beginning in such year and the recommendations of the Secretary contained in the annual report submitted by the Secretary pursuant to the provisions of section 3125 of this title. Such report shall be submitted to the President, the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations. The report may include the separate views of members of the Advisory Board. The first report shall be due not later than March 1, 1979.

(Pub. L. 95-113, title XIV, § 1408, Sept. 29, 1977, 91 Stat. 988.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (f)(2)(A), (D), read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3125 of this title; title 16 section 1673.

§ 3124. Existing research programs

It is the intent of Congress in enacting this chapter to augment, coordinate, and supplement the planning, initiation, and conduct of agricultural research programs existing prior to September 29, 1977, except that it is not the intent of Congress in enacting this title to limit the authority of the Secretary of Health, Education, and Welfare under any Act which the Secretary of Health, Education, and Welfare administers.

(Pub. L. 95-113, title XIV, § 1409, Sept. 29, 1977, 91 Stat. 989.)

REFERENCES IN TEXT

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95-113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3125. Annual report of Secretary of Agriculture to President and Congress

The Secretary shall submit to the President and Congress by February 1 of each year a report on the Nation's agricultural research, extension, and teaching activities, and such report shall include—

(1) a review covering the following three categories of activities of the Department of Agriculture with respect to agricultural research, extension, and teaching activities and the relationship of these activities to similar activities of other departments and agencies of the Federal Government, the States, colleges and universities, and the private sector—

(A) a current inventory of such activities organized by statutory authorization and budget outlay;

(B) a current inventory of such activities organized by field of basic and applied science; and

(C) a current inventory of such activities organized by commodity and product category;

(2) the statements of recommendations of the Joint Council developed pursuant to the provisions of section 3122(d)(2)(G) of this title and the statement of recommendations of the Advisory Board developed pursuant to the provisions of section 3123(f)(2)(E) of this title; and

(3) in the second and succeeding years, a five-year projection of national priorities with respect to agricultural research, extension, and teaching, taking into account both domestic and international needs.

(Pub. L. 95-113, title XIV, § 1410, Sept. 29, 1977, 91 Stat. 989.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3123 of this title.

§ 3126. Libraries and information network

(a) Congressional declaration of policy

It is declared to be the policy of Congress that—

(1) cooperation and coordination among, and the more effective utilization of, disparate agricultural libraries and information units be facilitated;

(2) information and library needs related to agricultural research and education be effectively planned for, coordinated, and evaluated;

(3) a structure for the coordination of the agricultural libraries of colleges and universi-

ties, Department of Agriculture libraries, and their closely allied information gathering and disseminating units be established in close conjunction with private industry and other research libraries;

(4) effective access by all colleges and universities and Department of Agriculture personnel to literature and information regarding the food and agricultural sciences be provided; and

(5) programs for training in information utilization with respect to the food and agricultural sciences, including research grants for librarians, information scientists, and agricultural scientists be established or strengthened.

(b) Food and Nutrition and Education Resources Center

There is established within the National Agricultural Library of the Department of Agriculture a Food and Nutrition Information and Education Resources Center. Such Center shall be responsible for—

(1) assembling and collecting food and nutrition education materials, including the results of nutrition research, training methods, procedures, and other materials related to the purpose of this chapter;

(2) maintaining such information and materials in a library; and

(3) providing for the dissemination of such information and materials on a regular basis to State educational agencies and other interested persons.

(c) Authorization of appropriations

Funds are authorized to be appropriated annually in such amounts as Congress may determine necessary to support the purposes of this section. The Secretary is authorized to carry out this section with existing facilities through the use of grants, contracts, or such other means as the Secretary deems appropriate and to require matching of funds. No funds appropriated to support the purposes of this section shall be used to purchase additional equipment unless specifically authorized by law subsequent to September 29, 1977.

(Pub. L. 95–113, title XIV, § 1411, Sept. 29, 1977, 91 Stat. 990.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (b)(1), read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3127. Support for Joint Council on Food and Agricultural Science and for National Agricultural Research and Extension Users Advisory Board

(a) Appointment of staff

To assist the Joint Council and Advisory Board in the performance of their duties, the Secretary is authorized to appoint—

(1) not to exceed five full-time professional staff employees qualified in the food and agricultural sciences, and

(2) an executive director for such staff who shall perform such duties as the chairmen of the Joint Council and the chairman of the Advisory Board may direct, and who shall receive compensation at a rate not in excess of the rate for GS–18 in the General Schedule set out in section 5332 of title 5.

(b) Additional clerical assistance and staff personnel

The Secretary shall provide such additional clerical assistance and staff personnel as may be required to assist the Joint Council and Advisory Board in carrying out their duties.

(c) Assistance of outside personnel

In formulating their recommendations to the Secretary, the Joint Council and Advisory Board may obtain the assistance of Department of Agriculture employees, and, to the maximum extent practicable, the assistance of employees of other Federal departments and agencies conducting related programs of agricultural research, extension, and teaching and of appropriate representatives of colleges and universities, including State agricultural experiment stations, cooperative extension services, and other non-Federal organizations conducting significant programs in the food and agricultural sciences.

(Pub. L. 95–113, title XIV, § 1412, Sept. 29, 1977, 91 Stat. 991.)

§ 3128. General provisions

(a) Any vacancy in the Joint Council or the Advisory Board shall not affect their powers under this title and shall be filled in the same manner as the original position.

(b) Members of the Joint Council and Advisory Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services under this chapter, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5.

(Pub. L. 95–113, title XIV, § 1413, Sept. 29, 1977, 91 Stat. 991.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (b), read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

SUBCHAPTER III—AGRICULTURAL RESEARCH AND EDUCATION GRANTS AND FELLOWSHIPS

§ 3151. Grants to establish or expand schools of veterinary medicine

(a) Matching formula

The Secretary shall conduct a program of grants to States for the purpose of meeting the costs of construction, employing faculty, acquiring equipment, and taking other action relating to the initial establishment and initial operation of schools of veterinary medicine, or the expansion of existing schools of veterinary medicine, as determined by the Secretary by regulations. This grant program shall be based on a matching formula of 50 per centum Federal and 50 per centum State funding.

(b) Preferences

Except with respect to the States of Alaska and Hawaii, the Secretary shall give preference in awarding grants to States which file, with their application for funds under this section, assurances satisfactory to the Secretary that—

(1) the State has established, or has made a reasonable effort to establish, a veterinary medical training program with one or more States without colleges of veterinary medicine which consists of appropriate cooperative agreements providing for a sharing of curriculum and costs by the individual States; and

(2) the clinical training of the school to be established or expanded shall emphasize care and preventive medical programs for food-producing animals.

Notwithstanding clause (1) of this subsection, no State which the Secretary determines has made a reasonable effort to establish appropriate cooperative agreements shall be denied a grant or otherwise prejudiced because of its failure to establish such cooperative agreements.

(c) Apportionment and distribution of funds

Funds appropriated to carry out this section for any fiscal year shall be apportioned and distributed as follows:

(1) Four per centum shall be retained by the Department of Agriculture for administration, program assistance to eligible States, and program coordination.

(2) The remainder shall be apportioned and distributed by the Secretary to those States which have applied for funds under this section on such basis as the Secretary may deem appropriate: *Provided,* That not less than 50 per centum of such funds shall be made available to States which have accredited schools of veterinary medicine.

(Pub. L. 95-113, title XIV, § 1415, Sept. 29, 1977, 91 Stat. 993.)

Effective Date

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3152. Grants and fellowships for food and agricultural sciences education

(a) Grant categories

The Secretary shall conduct a program of competitive grants for all colleges and universities for the purpose of furthering education in the food and agricultural sciences. These grants shall be made in the following two categories:

(1) Grants to strengthen programs of training and research in the food and agricultural sciences for scientists at the graduate and postdoctoral levels at all colleges and universities. Grants in this category may be used for exploratory research by such scientists, the acquisition of instruments, equipment, and facilities for research and training and other programs and activities aimed at meeting departmental, interdepartmental, or institution-wide training and research needs, or a combination thereof. Grants shall be made on a competitive basis and may cover periods not to exceed four years. Competition for such grants shall be open to all colleges and universities in the United States which have a capacity for teaching, research, and the dissemination of research results in the food and agricultural sciences or which are establishing such programs.

(2) Grants to strengthen undergraduate programs in the food and agricultural sciences at all colleges and universities. Grants in this category may be used to support programs designed to improve such undergraduate programs through traditional or non-traditional courses, curriculums, or teaching modes. Grants shall be made on a competitive basis and may cover periods not to exceed two years. Competition for such grants shall be open to all colleges and universities or to groups of such institutions which individually or collectively have a capacity for teaching, research, and the dissemination of research results in the food and agricultural sciences or which are establishing such programs.

(b) Predoctoral and postdoctoral fellowships

The Secretary shall conduct a program of predoctoral and postdoctoral fellowships in the food and agricultural sciences. These fellowships shall be made in the following two categories:

(1) Predoctoral fellowships, each for a period of up to four years. The purpose of these fellowships shall be to provide training and increase research capabilities in areas of need as identified by each State. These fellowships shall be awarded on the basis of merit, as determined by review panels established annually by the Secretary, to graduate students from each of the States, if the following criteria are satisfied:

(A) the student is enrolled in a graduate degree program in a college or university; and

(B) the student intends to pursue or is pursuing a course of study in the food and agricultural sciences which is directly related to an area of need as identified by the Governor or chief executive officer of the State.

At least three such fellowships shall be awarded to students from each State in every year.

(2) Postdoctoral fellowships, each for a period of from one to five years. The purpose of these fellowships shall be to attract highly promising investigators to research careers in the basic sciences related to agriculture and to provide stipends and research support for their training and establishment as independent investigators. In making awards under this paragraph, the Secretary shall give priority to individuals doing basic research at colleges and universities.

(c) Transfer of funds

Funds authorized in section 329 of this title, are transferred to and shall be administered by the Secretary of Agriculture.

(d) Authorization of appropriations

There are hereby authorized to be appropriated for the purposes of carrying out the provisions of this section $25,000,000 for the fiscal year ending September 30, 1978, $30,000,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, $40,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

(Pub. L. 95–113, title XIV, § 1417, Sept. 29, 1977, 91 Stat. 996.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

§ 3153. National Agricultural Research Award

(a) Establishment

The Secretary shall establish the National Agricultural Research Award for research or advanced studies in the food and agricultural sciences. Two such awards, one for each of the categories described in subsection (c) of this section, shall be made in each fiscal year.

(b) Amount and term

The awards shall not exceed $50,000 per year for a period of not to exceed three years to support research or study by the recipient.

(c) Categories

Awards under this section shall be made in each fiscal year in two categories as follows:

(1) to a scientist in recognition of outstanding contributions to the advancement of the food and agricultural sciences; and

(2) to a research scientist in early career development or a graduate student, in recognition of demonstrated capability and promise of significant future achievement in the food and agricultural sciences.

(d) Nominating and selection committees

The Secretary may establish such nominating and selection committees, to consist of scientists and others, to receive nominations and make recommendations for awards under this section, as the Secretary deems appropriate.

(Pub. L. 95–113, title XIV, § 1418, Sept. 29, 1977, 91 Stat. 997.)

§ 3154. Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products, and agricultural chemicals and other products from coal derivatives

The Secretary shall make grants under this section to colleges and universities for the purpose of conducting research related to the production and marketing of (1) coal tar, producer gas, and other coal derivatives for the manufacture of agricultural chemicals, methanol, methyl fuel, and alcohol-blended motor fuel (such agricultural chemicals to include, but not be limited to, fertilizers, herbicides, insecticides, and pesticides), (2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products, and (3) other industrial hydrocarbons made from agricultural commodities and forest products. There are hereby authorized to be appropriated for the purposes of carrying out the provision of this section, $3,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the four subsequent fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982: *Provided,* That the total amount of such appropriations shall not exceed $24,000,000 during the five-year period beginning October 1, 1977, and ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year: *Provided further,* That not more than a total of $3,000,000 may be awarded to the colleges and universities of any one State.

(Pub. L. 95–113, title XIV, § 1419, Sept. 29, 1977, 91 Stat. 997.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3311 of this title.

SUBCHAPTER IV—NATIONAL FOOD AND HUMAN NUTRITION RESEARCH AND EXTENSION PROGRAM

§ 3171. Congressional findings and declaration of policy

(a) Findings

Congress finds that there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States: that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effects of diet on degenerative diseases and related disorders; that nutrition and health considerations are important to United States agricultural policy; that there is insufficient knowledge concerning precise human nutritional requirements, the interaction of the various nutritional constituents of food, and differences in nutritional requirements among different population groups such as infants, children, adolescents, elderly men and women, and pregnant women; and that there is a critical need for objective data concerning food safety, the potential of food enrichment, and means to encourage better nutritional practices.

(b) Declaration of policy

It is declared to be the policy of the United States that the Department of Agriculture conduct research in the fields of human nutrition and the nutritive value of foods and conduct human nutrition education activities, as provided in this subchapter.

(Pub. L. 95–113, title XIV, § 1421, Sept. 29, 1977, 91 Stat. 999.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3177 of this title.

§ 3172. Duties of Secretary of Agriculture

In order to carry out the policy of this subchapter, the Secretary shall develop and implement a national food and human nutrition research and extension program that shall include, but not be limited to—

(1) research on human nutritional requirements;

(2) research on the nutrient composition of foods and the effects of agricultural practices, handling, food processing, and cooking on the nutrients they contain;

(3) surveillance of the nutritional benefits provided to participants in the food programs administered by the Department of Agriculture;

(4) research on the factors affecting food preference and habits; and

(5) the development of techniques and equipment to assist consumers in the home or in institutions in selecting food that supplies a nutritionally adequate diet.

(Pub. L. 95–113, title XIV, § 1422, Sept. 29, 1977, 91 Stat. 999.)

§ 3173. Research by Department of Agriculture

(a) Increase in level of support

The Secretary shall establish research into food and human nutrition as a separate and distinct mission of the Department of Agriculture, and the Secretary shall increase support for such research to a level that provides resources adequate to meet the policy of this subchapter.

(b) Periodic consultation with administrators of other Federal departments and agencies

The Secretary, in administering the food and human nutrition research program, shall periodically consult with the administrators of the other Federal departments and agencies that have responsibility for programs dealing with human food and nutrition, as to the specific research needs of those departments and agencies.

(Pub. L. 95–113, title XIV, § 1423, Sept. 29, 1977, 91 Stat. 999.)

§ 3174. Study assessing potential value and cost of establishing regional food and human nutrition research centers

The Secretary shall perform a study assessing the potential value and cost of establishing regional food and human nutrition research centers in the United States. This assessment shall examine the feasibility of using existing Federal facilities in establishing such centers. The Secretary shall complete this study and submit a report setting forth the findings of the study and recommendations for the implementation of these findings, as a part of the plan the Secretary is required to submit to Congress pursuant to section 3177 of this title, not later than one year after October 1, 1977.

(Pub. L. 95–113, title XIV, § 1424, Sept. 29, 1977, 91 Stat. 1000.)

§ 3175. Nutrition education program

(a) Establishment

The Secretary shall establish a national education program which shall include, but not be limited to, the dissemination of the results of food and human nutrition research performed or funded by the Department of Agriculture.

(b) Expansion of existing programs

In order to enable low-income individuals and families to engage in nutritionally sound food purchasing and preparation practices, the expanded food and nutrition education program presently conducted under section 343(d) of this title, shall be expanded to provide for the employment and training of professional and paraprofessional aides to engage in direct nutrition education of low-income families and in other appropriate nutrition education programs. Funds for carrying out the provisions of this subsection shall be allocated to each State in an amount which bears the same ratio to the total amount to be allocated as the population of the State living at or below 125 per centum of the income poverty guidelines prescribed by the Office of Management and Budget (adjusted pursuant to section 2971d of title 42), bears to the total population of all the States living at or below 125 per centum of the income poverty guidelines, as determined by the last preceding decennial census at the time each such sum is first appropriated. To the maximum extent practicable, program aides shall be hired from the indigenous target population. The provisions of this subsection shall not preclude the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subsection.

(Pub. L. 95–113, title XIV, § 1425, Sept. 29, 1977, 91 Stat. 1000.)

§ 3176. Nutrition education materials

In order to encourage nutrition education programs in the classrooms and lunchrooms of elementary and secondary schools, the Secretary shall, in consultation with appropriate officers in the Department of Health, Education, and Welfare, develop and distribute to State departments of education a comprehensive set of educational materials on food and nutrition education which shall be appropriate for all levels of the elementary and secondary education system.

(Pub. L. 95–113, title XIV, § 1426, Sept. 29, 1977, 91 Stat. 1000.)

§ 3177. Report to Congress

The Secretary shall submit a comprehensive plan for implementing the national food and human nutrition research and extension program provided for by this subtitle to Congress within one year after October 1, 1977. The plan shall include, but not be limited to, recommendations relating to research direction, funding levels, needed facilities grants, and use of Federal facilities in cooperation with States and others, necessary to achieve the policy set forth in section 3171 of this title.

(Pub. L. 95–113, title XIV, § 1427, Sept. 29, 1977, 91 Stat. 1000.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3174 of this title.

§ 3178. Nutritional status monitoring

(a) Formulation of system

The Secretary and the Secretary of Health, Education, and Welfare shall formulate and submit to Congress, within ninety days after September 29, 1977, a proposal for a comprehensive nutritional status monitoring system, to include:

(1) an assessment system consisting of periodic surveys and continuous monitoring to determine: the extent of risk of nutrition-related health problems in the United States; which population groups or areas of the country face greatest risk; and the likely causes of risk and changes in the above risk factors over time;

(2) a surveillance system to identify remediable nutrition-related health risks to individuals or for local areas, in such a manner as to tie detection to direct intervention and treatment. Such system should draw on screening and other information from other health programs, including those funded under titles V, XVIII, and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1395 et seq., and 1396 et seq.] and section 330 of the Public Health Service Act [42 U.S.C. 254c]; and

(3) program evaluations to determine the adequacy, efficiency, effectiveness, and side effects of nutrition-related programs in reducing health risks to individuals and populations.

(b) Coordination of existing activities; recommendation for necessary additional authorities

The proposal shall provide for coordination of activities under existing authorities and contain recommendations for any additional authorities necessary to achieve a comprehensive monitoring system.

(Pub. L. 95–113, title XIV, § 1428, Sept. 29, 1977, 91 Stat. 1001.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title V of the Social Security Act is classified principally to subchapter V (§ 701 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42.

For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

SUBCHAPTER V—ANIMAL HEALTH AND DISEASE RESEARCH

§ 3191. Congressional findings and declaration of purpose

It is the purpose of this subchapter to promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals which are essential to the Nation's food supply and the welfare of producers and consumers of animal products; to improve the health of horses; to facilitate the effective treatment of, and, where possible, prevent, animal and poultry diseases in both domesticated and wild animals which, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the Nation's food supply; to minimize livestock and poultry losses due to transportation and handling; to protect human health through control of animal diseases transmissible to humans; to improve methods of controlling the births of predators and other animals; and otherwise to promote the general welfare through expanded programs of research and extension to improve animal health. It is recognized that the total animal health and disease research and extension efforts of the several State colleges and universities and of the Federal Government would be more effective if there were close coordination between such programs, and it is further recognized that colleges and universities having accredited colleges of veterinary medicine or departments of veterinary sciences or animal pathology, and similar units conducting animal health and disease research in the State agricultural experiment stations, are especially vital in training research workers in animal health.

(Pub. L. 95–113, title XIV, § 1429, Sept. 29, 1977, 91 Stat. 1001.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3199 of this title.

§ 3192. Definitions

When used in this subchapter—

(1) the term "eligible institution" means any college or university having an accredited college of veterinary medicine or a department of veterinary science or animal pathology, or a similar unit conducting animal health and disease research in a State agricultural experiment station;

(2) the term "dean" means the dean of a college or university which qualifies as an eligible institution;

(3) the term "director" means the director of a State agricultural experiment station which qualifies as an eligible institution;

(4) the term "Board" means the Animal Health Science Research Advisory Board; and

(5) the term "animal health research capacity" means the capacity of an eligible institution to conduct animal health and disease research, as determined by the Secretary.

(Pub. L. 95–113, title XIV, § 1430, Sept. 29, 1977, 91 Stat. 1002.)

§ 3193. Authorization of Secretary of Agriculture with regard to State programs

In order to carry out the purpose of this subchapter, the Secretary is authorized to cooperate with, encourage, and assist the States in carrying out programs of animal health and disease research at eligible institutions in the manner hereinafter described in this subchapter.

(Pub. L. 95–113, title XIV, § 1431, Sept. 29, 1977, 91 Stat. 1002.)

§ 3194. Animal Health Science Research Advisory Board

(a) Establishment; membership

The Secretary shall establish a board to be known as the Animal Health Science Research Advisory Board which shall have a term of five years, and which shall be composed of the following eleven members—

(1) a representative of the Agricultural Research Service of the Department of Agriculture,

(2) a representative of the Cooperative State Research Service of the Depatment[1] of Agriculture,

(3) a representative of the Animal and Plant Health Inspection Service of the Department of Agriculture,

(4) a representative of the Bureau of Veterinary Medicine of the Food and Drug Administration of the Department of Health, Education, and Welfare, and

(5) seven members appointed by the Secretary—

(A) two persons representing accredited colleges of veterinary medicine,

(B) two persons representing State agricultural experiment stations, and

(C) three persons representing national livestock and poultry organizations.

The members shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5.

(b) Meetings

The Board shall meet at the call of the Secretary, but at least once annually, to consult with and advise the Secretary with respect to the implementation of this subchapter and to recommend immediate priorities for the conduct of research programs authorized under subchapter, under such rules and procedures for conducting business as the Secretary shall, in the Secretary's discretion, prescribe.

(Pub. L. 95–113, title XIV, § 1432, Sept. 29, 1977, 91 Stat. 1002.)

§ 3195. Continuing animal health and disease research programs

(a) Authorization of appropriations

There are authorized to be appropriated such funds, not to exceed $25,000,000 annually, as Congress may determine necessary to support continuing animal health and disease research programs at eligible institutions. Funds appropriated under this section shall be used: (1) to meet expenses of conducting animal health and disease research, publishing and disseminating the results of such research, and contributing to the retirement of employees subject to the provisions of section 331 of this title; (2) for administrative planning and direction; and (3) to purchase equipment and supplies necessary for conducting such research.

(b) Apportionment of appropriated funds

Funds appropriated under subsection (a) of this section for any fiscal year shall be apportioned as follows:

(1) Four per centum shall be retained by the Department of Agriculture for administration, program assistance to the eligible institutions, and program coordination.

(2) Forty-eight per centum shall be distributed among the several States in the proportion that the value of and income to producers from domestic livestock and poultry in each State bears to the total value of and income to producers from domestic livestock and poultry in all the States. The Secretary shall determine the total value of and income from domestic livestock and poultry in all the States and the proportionate value of and income from domestic livestock and poultry for each State, based on the most current inventory of all cattle, sheep, swine, horses, and poultry published by the Department of Agriculture.

(3) Forty-eight per centum shall be distributed among the several States in the proportion that the animal health research capacity of the eligible institutions in each State bears to the total animal health research capacity in all the States. The Secretary shall determine the animal health research capacity of the eligible institutions with the advice, when available, of the Board.

(c) Development of program for each State

In each State with one or more accredited colleges of veterinary medicine, the deans of the accredited college or colleges and the director of the State agricultural experiment station shall develop a comprehensive animal health and disease research program for the State based on the animal health research capacity of each eligible institution in the State, which shall be submitted to the Secretary for approval and shall be used for the allocation of funds available to the State under this section.

(d) Use of excess funds

When the amount available under this section for allotment to any State on the basis of

[1] So in original. Probably should be "Department".

domestic livestock and poultry values and income exceeds the amount for which the eligible institution or institutions in the State are eligible on the basis of animal health research capacity, the excess may be used, at the discretion of the Secretary, for remodeling of facilities, construction of new facilities, or increase in staffing, proportionate to the need for added research capacity.

(e) Reallocation of funds to new colleges of veterinary medicine

Whenever a new college of veterinary medicine is established in a State and is accredited, the Secretary, after consultation with the dean of such college and the director of the State agricultural experiment station and, where applicable, deans of other accredited colleges in the State, shall provide for the reallocation of funds available to the State pursuant to subsection (b) of this section between the new college and other eligible institutions in the State, based on the animal health research capacity of each eligible institution.

(f) Joint establishment or support of accredited regional college of veterinary medicine

Whenever two or more States jointly establish an accredited regional college of veterinary medicine or jointly support an accredited college of veterinary medicine serving the States involved, the Secretary is authorized to make funds which are available to such States pursuant to subsection (b)(2) of this section available for such college in such amount that reflects the combined relative value of and income from domestic livestock and poultry in the cooperating States, such amount to be adjusted, as necessary, pursuant to the provisions of subsections (c) and (e) of this section.

(Pub. L. 95–113, title XIV, § 1433, Sept. 29, 1977, 91 Stat. 1003.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3198, 3199 of this title.

§ 3196. Research on national and regional animal health or disease problems

(a) Authorization of appropriations

There are authorized to be appropriated such funds, not to exceed $15,000,000 annually, as Congress may determine necessary to support research on specific national or regional animal health or disease problems.

(b) Allocation of appropriated funds

Funds appropriated under this section shall be allocated by the Secretary to eligible institutions for work to be done, as mutually agreed upon between the Secretary and the eligible institution or institutions. The Secretary shall, whenever possible, consult the Board in developing plans for the use of these funds.

(Pub. L. 95–113, title XIV, § 1434, Sept. 29, 1977, 91 Stat. 1004.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3200 of this title.

§ 3197. Availability of appropriated funds

Funds available for allocation under the terms of this subchapter shall be paid to each State or eligible institution at such times and in such amounts as shall be determined by the Secretary. Funds shall remain available for payment of unliquidated obligations for one additional fiscal year following the year of appropriation.

(Pub. L. 95–113, title XIV, § 1435, Sept. 29, 1977, 91 Stat. 1004.)

§ 3198. Withholding of appropriated funds

If the Secretary determines that a State is not entitled to receive its allocation of the annual appropriation under section 3195 of this title because of its failure to satisfy requirements of this subtitle or regulations issued under it, the Secretary shall withhold such amount. The facts and reasons concerning the determination and withholding shall be reported to the President; and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(Pub. L. 95–133, title XIV, § 1436, Sept. 29, 1977, 91 Stat. 1004.)

§ 3199. Requirements for use of funds

With respect to research projects on problems of animal health and disease to be performed at eligible institutions and supported with funds allocated to the States under section 3195 of this title, the dean or director of each eligible institution shall cause to be prepared and shall review proposals for such research projects, which contain data showing compliance with the purpose in section 3191 of this title and the provisions for use of funds specified in section 3195(a) of this title, and with general guidelines for project eligibility to be provided by the Secretary with the advice, when available, of the Board. Such research proposals that are approved by the dean or director shall be submitted to the Secretary prior to assignment of funds thereto with a brief summary showing compliance with the provisions of this subtitle and the Secretary's general guidelines.

(Pub. L. 95–113, title XIV, § 1437, Sept. 29, 1977, 91 Stat. 1004.)

§ 3200. Matching funds

No funds in excess of $100,000, exclusive of the funds provided for research on specific national or regional animal health and disease problems under the provisions of section 3196 of this title, shall be paid by the Federal Government to any State under this subchapter during any fiscal year in excess of the amount from non-Federal sources made available to and budgeted for expenditure by eligible institutions in the State during the same fiscal year for animal health and disease research. The Secretary is authorized to make such payments in excess of $100,000 on the certificate of the appropriate official of the eligible institution

having charge of the animal health and disease research for which such payments are to be made. If any eligible institution certified for receipt of matching funds fails to make available and budget for expenditure for animal health and disease research in any fiscal year sums at least equal to the amount for which it is certified, the difference between the Federal matching funds available and the funds made available to and budgeted for expenditure by the eligible institution shall be reapportioned by the Secretary among other eligible institutions of the same State, if there are any which qualify therefor, and, if there are none, the Secretary shall reapportion such difference among the other States.

(Pub. L. 95-113, title XIV, § 1438, Sept. 29, 1977, 91 Stat. 1005.)

§ 3201. Funds appropriated or otherwise made available pursuant to other provisions of law

The sums appropriated and allocated to States and eligible institutions under this subchapter shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to such States and institutions pursuant to other provisions of law.

(Pub. L. 95-113, title XIV, § 1439, Sept. 29, 1977, 91 Stat. 1005.)

SUBCHAPTER VI—1890 LAND GRANT COLLEGE FUNDING

§ 3221. Extension at 1890 land grant colleges, including Tuskegee Institute

(a) Authorization of appropriations

There are authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural and forestry extension at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including Tuskegee Institute (hereinafter in this section referred to as "eligible institutions"). Beginning with the fiscal year ending September 30, 1979, there shall be appropriated under this section for each fiscal year an amount not less than 4 per centum of the total appropriations for such year under the Act of May 8, 1914 (38 Stat. 372-374, as amended; 7 U.S.C. 341-349): *Provided*, That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available for the fiscal year ending September 30, 1978, to such eligible institutions under section 343(d) of this title. Funds appropriated under this section shall be used for expenses of conducting extension programs and activities, and for contributing to the retirement of employees subject to the provisions of section 331 of this title. No more than 20 per centum of the funds received by an institution in any fiscal year may be carried forward to the succeeding fiscal year.

(b) Allocation and distribution of appropriated funds

Beginning with the fiscal year ending September 30, 1979—

(1) any funds annually appropriated under this section up to the amount appropriated for the fiscal year ending September 30, 1978, pursuant to section 343(d) of this title, for eligible institutions, shall be allocated among the eligible institutions in the same proportion as funds appropriated under section 343(d) of this title for the fiscal year ending September 30, 1978, are allocated among the eligible institutions; and

(2) any funds appropriated annually under this section in excess of an amount equal to the amount appropriated under section 343(d) of this title, for the fiscal year ending September 30, 1978, for eligible institutions, shall be distributed as follows:

(A) A sum equal to 4 per centum of the total amount appropriated each fiscal year under this section shall be allotted to the Extension Service of the Department of Agriculture for administrative, technical, and other services, and for coordinating the extension work of the Department of Agriculture and the several States.

(B) Of the remainder, 20 per centum shall be allotted among the eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census.

In computing the distribution of funds allocated under paragraph (2) of this subsection, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) Comprehensive program of extension for each State

The State director of the cooperative extension service and the administrative head for extension at the eligible institution in each State where an eligible institution is located shall jointly develop, by mutual agreement, a comprehensive program of extension for such State to be submitted for approval by the Secretary within one year after September 29, 1977.

(d) Payment of funds to eligible institutions

On or about the first day of October in each year after September 29, 1977, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriation for extension work under this section and the amount which it is entitled to receive. Before the funds herein provided shall become available to any eligible institution for any fiscal year, plans for the work to be carried out under this section shall be submitted by the proper officials of each institution and approved by the Secretary. Such sums shall be paid in equal quarterly payments on or about

October 1, January 1, April 1, and July 1 of each year to the treasurer or other officer of the eligible institution duly authorized to receive such payments and such officer shall be required to report to the Secretary on or about the first day of December of each year a detailed statement of the amount so received during the previous fiscal year and its disbursement, on forms prescribed by the Secretary.

(e) Diminution, loss, or misapplication of funds

If any portion of the moneys received by any eligible institution for the support and maintenance of extension work as provided in this section shall by any action or contingency be diminished or lost or be misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be apportioned or paid to such institution. No portion of such moneys shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings, or the purchase or rental of land, or in college course teaching, lectures in college, or any other purpose not specified in this section. It shall be the duty of such institution, annually, on or about the first day of January, to make to the Governor of the State in which it is located a full and detailed report of its operations in extension work, including a detailed statement of receipts and expenditures from all sources for this purpose, a copy of which report shall be sent to the Secretary.

(f) Secretary's finding of non-entitlement to appropriated funds

If the Secretary finds that an eligible institution is not entitled to receive its share of the annual appropriation, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the next Congress in order that the institution may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(g) Mailing of correspondence, bulletins, and reports

To the extent that the official mail consists of correspondence, bulletins, and reports for furtherance of the purposes of this section, it shall be transmitted in the mails of the United States under penalty indicia: *Provided*, That each item shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such items may be mailed from a principal place of business of each eligible institution or from an established subunit of such institution.

(Pub. L. 95–113, title XIV, § 1444, Sept. 29, 1977, 91 Stat. 1007.)

REFERENCES IN TEXT

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Act of May 8, 1914, 38 Stat. 372, as amended, referred to in subsec. (a), is popularly known as the "Smith-Lever Act", and is classified generally to subchapter IV (§ 341 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 341 of this title and Tables.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3222. Agricultural research at 1890 land grant colleges, including Tuskegee Institute

(a) Authorization of appropriations

There are authorized to be appropriated annually such sums as Congress may determine necessary to support continuing agricultural research at colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including Tuskegee Institute (hereinafter referred to in this section as "eligible institutions"). Beginning with the fiscal year ending September 30, 1979, there shall be appropriated under this section for each fiscal year an amount not less than 15 per centum of the total appropriations for such year under section 361c of this title: *Provided*, That the amount appropriated for the fiscal year ending September 30, 1979, shall not be less than the amount made available in the fiscal year ending September 30, 1978, to such eligible institutions under the Act of August 4, 1965 (79 Stat. 431, 7 U.S.C. 450i). Funds appropriated under this section shall be used for expenses of conducting agricultural research, printing, disseminating the results of such research, contributing to the retirement of employees subject to the provisions of section 331 of this title, administrative planning and direction, and purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting agricultural research. The eligible institutions are authorized to plan and conduct agricultural research in cooperation with each other and such agencies, institutions, and individuals as may contribute to the solution of agricultural problems, and moneys appropriated pursuant to this section shall be available for paying the necessary expenses of planning, coordinating, and conducting such cooperative research.

(b) Allocation and distribution of appropriated funds

Beginning with the fiscal year ending September 30, 1979, the funds appropriated in each fiscal year under this section shall be distributed as follows:

(1) Three per centum shall be available to the Secretary for administration of this section.

(2) The remainder shall be allotted among the eligible institutions as follows:

(A) Funds up to the total amount made available to all eligible institutions in the fiscal year ending September 30, 1978, under section 450i of this title, shall be allocated among the eligible institutions in the same proportion as funds made available under section 450i of this title, for the fiscal

year ending September 30, 1978, are allocated among the eligible institutions.

(B) Of funds in excess of the amount allocated under subparagraph (A) of this paragraph, 20 per centum shall be allotted among eligible institutions in equal proportions; 40 per centum shall be allotted among the eligible institutions in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which eligible institutions are located, as determined by the last preceding decennial census; and the balance shall be allotted among the eligible institutions in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which the eligible institutions are located, as determined by the last preceding decennial census. In computing the distribution of funds allocated under this subparagraph, the allotments to Tuskegee Institute and Alabama Agricultural and Mechanical University shall be determined as if each institution were in a separate State.

(c) Comprehensive program of agricultural research for each State

The director of the State agricultural experiment station in each State where an eligible institution is located and the chief administrative officer specified in subsection (d) of this section in each of the eligible institutions in such State shall jointly develop, by mutual agreement, a comprehensive program of agricultural research in such State, to be submitted for approval by the Secretary within one year after September 29, 1977.

(d) Payment of funds to eligible institutions

Sums available for allotment to the eligible institutions under the terms of this section shall be paid to such institutions in equal quarterly payments beginning on or about the first day of October of each year upon vouchers approved by the Secretary. The President of each eligible institution shall appoint a chief administrative officer who shall be responsible for administration of the program authorized herein. Each eligible institution shall designate a treasurer or other officer who shall receive and account for all funds allotted to such institution under the provisions of this section and shall report, with the approval of the chief administrative officer, to the Secretary on or before the first day of December of each year a detailed statement of the amount received under the provisions of this section during the preceding fiscal year and its disbursement on schedules prescribed by the Secretary. If any portion of the allotted moneys received by any eligible institution shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by such institution and until so replaced no subsequent appropriation shall be allotted or paid to such institution. Funds made available to eligible institutions shall not be used for payment of negotiated overhead or indirect cost rates.

(e) Mailing of bulletins, reports, periodicals, reprints, articles, and other publications

Bulletins, reports, periodicals, reprints or articles, and other publications necessary for the dissemination of results of the research and experiments funded under this section, including lists of publications available for distribution by the eligible institutions, shall be transmitted in the mails of the United States under penalty indicia: *Provided*, That each publication shall bear such indicia as are prescribed by the Postmaster General and shall be mailed under such regulations as the Postmaster General may from time to time prescribe. Such publications may be mailed from the principal place of business of each eligible institution or from an established subunit of such institution.

(f) Administration; rules and regulations; cooperation by and between institutions

The Secretary shall be responsible for the proper administration of this section, and is authorized and directed to prescribe such rules and regulations as may be necessary to carry out its provisions. It shall be the duty of the Secretary to furnish such advice and assistance as will best promote the purposes of this section, including participation in coordination of research initiated under this section by the eligible institutions, from time to time to indicate such lines of inquiry as to the Secretary seem most important, and to encourage and assist in the establishment and maintenance of cooperation by and between the several eligible institutions, the State agricultural experiment stations, and between them and the Department of Agriculture.

(g) Entitlement; unexpended appropriations; reports to Congress

(1) On or before the first day of October in each year after September 29, 1977, the Secretary shall ascertain whether each eligible institution is entitled to receive its share of the annual appropriations under this section and the amount which thereupon each is entitled, respectively, to receive.

(2) Whenever it shall appear to the Secretary from the annual statement of receipts and expenditures of funds by any eligible institution that any portion of the preceding annual appropriation allotted to that institution under this section remains unexpended, such amount shall be deducted from the next succeeding annual allotment to the institution.

(3) If the Secretary withholds from any eligible institution any portion of the appropriations available for allotment, the facts and reasons therefor shall be reported to the President and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress does not direct such sum to be paid, it shall be carried to surplus.

(4) The Secretary shall make an annual report to Congress during the first regular session of each year of the receipts and expenditures and work of the eligible institutions under the provisions of this section and also whether any portion of the appropriation available for allotment to any institution has been withheld and if so the reasons therefor.

(h) Existing legal relationships not impaired or modified

Nothing in this section shall be construed to impair or modify the legal relationship existing between any of the eligible institutions and the government of the States in which they are respectively located.

(Pub. L. 95–113, title XIV, § 1445, Sept. 29, 1977, 91 Stat. 1009, amended Pub. L. 95–547, Oct. 28, 1978, 92 Stat. 2063.)

REFERENCES IN TEXT

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

The Act of August 4, 1965 (79 Stat. 431, 7 U.S.C. 450i), referred to in subsec. (a), is Pub. L. 89–106, Aug. 4, 1965, 79 Stat. 431, which enacted sections 450i, 2250a, 2262, and 2263 of this title, amended sections 1704, 1762, 1884, and 2235 of this title, and repealed section 608f of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (b)(2)(A). Pub. L. 95–547 substituted provisions relating to the allocation of funds among eligible institutions in the same proportion as funds made available under section 450i of this title, for the fiscal year ending Sept. 30, 1978, are allocated among eligible institutions for provisions relating to the allocation of $100,000 to each eligible institution.

Subsec. (b)(2)(B). Pub. L. 95–547 substituted provisions relating to the allocation among eligible institutions of 20 per centum of the excess funds in equal proportions, 40 per centum in the proportion that the rural population of the State in which each eligible institution is located bears to the total rural population of all the States in which such institutions are located, and the balance in the proportion that the farm population of the State in which each eligible institution is located bears to the total farm population of all the States in which such institutions are located for provisions relating to the allocation among eligible institutions of one-half of the remaining funds in an amount which bore the same ratio to the total amount to be allocated as the rural population of the State in which the eligible institution was located bore to the total rural population of all the States in which such institutions were located, and one-half in an amount which bore the same ratio to the total amount to be allocated as the farm population of the State in which the eligible institution was located bore to the total farm population of all the States in which such institutions were located.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 390c of this title.

SUBCHAPTER VII—SOLAR ENERGY RESEARCH AND DEVELOPMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3103, 3311 of this title.

PART A—COMPETITIVE GRANT PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3281 of this title.

§ 3241. Farm and forest uses of solar energy; nonrenewable fuel and petrochemical substitutes

The Secretary shall carry out a program of competitive grants to persons and organizations, subject to the requirements and conditions provided for in sections 450i(e), 450i(f), and 450i(h) of this title, for carrying out research and development relating to—

(1) uses of solar energy with respect to farm buildings, farm homes, and farm machinery (including, but not limited to, equipment used to dry or cure farm crops or forest products, or to provide irrigation); and

(2) uses of biomass derived from solar energy, including farm and forest products, byproducts, and residues, as substitutes for nonrenewable fuels and petrochemicals.

(Pub. L. 95–113, title XIV, § 1449, Sept. 29, 1977, 91 Stat. 1012.)

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

PART B—INFORMATION SYSTEM AND ADVISORY COMMITTEE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3281 of this title.

§ 3251. Solar energy research information system

The Secretary shall, through the Cooperative State Research Service and other agencies within the Department of Agriculture which the Secretary considers appropriate, in consultation with the Energy Research and Development Administration, other appropriate United States Government agencies, the National Academy of Sciences, and private and nonprofit institutions involved in solar energy research projects, by June 1, 1978, and by June 1 in each year thereafter, make a compilation of solar energy research projects related to agriculture which are being carried out during such year by Federal, State, private, and nonprofit institutions and, where available, the results of such projects. Such compilations may include, but are not limited to, projects dealing with heating and cooling methods for farm structures and dwellings (such as greenhouses, curing barns, and livestock shelters), storage of power, operation of farm equipment (including irrigation pumps, crop dryers and curers, and electric vehicles), and the development of new technologies to be used on farms which are powered by other than fossil fuels or derivatives thereof.

(Pub. L. 95–113, title XIV, § 1450, Sept. 20, 1977, 91 Stat. 1012.)

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3252. Advisory committee

In order to assist the Secretary in carrying out functions assigned to the Secretary under part C of this subchapter, the Secretary is authorized to establish an advisory committee

within the Department of Agriculture or utilize an existing advisory committee, if a suitable one exists, for such purposes.

(Pub. L. 95-113, title XIV, § 1451, Sept. 29, 1977, 91 Stat. 1013.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

PART C—MODEL FARMS AND DEMONSTRATION PROJECTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 3252 of this title.

§ 3261. Model farms

(a) Establishment and operation

In order to promote the establishment and operation of solar energy demonstration farms within each State, the Secretary shall distribute funds to carry out the activities described in subsections (b) and (c) of this section and section 3262 of this title to one or more of the following in each State: the State department of agriculture, the State cooperative extension service, the State agricultural experiment station, forestry schools eligible to receive funds under the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), or colleges and universities eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including Tuskegee Institute (hereinafter in this part referred to as "eligible institutions"), in accordance with such rules and regulations as the Secretary may prescribe.

(b) Activities and responsibilities of fund recipients

The recipient or recipients in such State shall—

(1) establish at least one large model farm which—

(A) demonstrates all the solar energy projects determined by the Secretary, in consultation with the recipient or recipients, to be useful and beneficial to the State;

(B) is located in the State on land owned or operated by that State and, if practicable, on the State agricultural experiment station farm land; and

(C) includes other farming practices, such as raising livestock and crops, in order to provide a model of a farm which applies new and improved methods of agriculture through the use of solar energy as a means of heating, cooling, drying, or curing crops, and providing other farm needs;

(2) sell the products of the model farm established under paragraph (1) of this subsection and pay to the Secretary that portion of the proceeds received through each such sale as bears the same proportion to the total proceeds as the grants under this section bear to the total cost of operating the farm. The Secretary shall deposit such funds into a fund which shall be available without fiscal year limitation for use in carrying out the provisions of this part;

(3) provide tours of the model farm to farmers and other interested groups and individuals and, upon request, provide such farmers, groups, and individuals with information concerning the operation of such model farm and the demonstrations, if any, established by it under section 3262 of this title;

(4) determine the costs of energy, the income, and the total cost of the model farm; and

(5) annually compile a report concerning energy usage, income costs, operating difficulties, and farmer interest with respect to the model farm and the demonstrations, if any, established by it under section 3262 of this title, and submit the report to the Secretary along with any recommendations concerning project changes and specific needs of such farm or demonstrations.

(c) Extension of results

The results obtained from each model farm established under subsection (b) of this section which prove to be economically practical shall be extended to other farms in each State through the State cooperative extension service as part of its ongoing energy management and conservation education programs.

(Pub. L. 95-113, title XIV, § 1452, Sept. 29, 1977, 91 Stat. 1013.)

REFERENCES IN TEXT

The Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), referred to in subsec. (a), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

Act of August 30, 1890, 26 Stat. 417, as amended, referred to in subsec. (a), is popularly known as the "Agricultural College Act of 1890" and also as the "Second Morrill Act", and is classified generally to subchapter II (§ 321) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

EFFECTIVE DATE

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3262 of this title.

§ 3262. Demonstration projects

(a) Establishment

During each calendar year after the first two calendar years for which eligible institutions in a State receive grants pursuant to section 3261 of this title the recipient or recipients of such grants in each State, in consultation with the Secretary, shall establish not less than ten demonstrations of solar energy projects which they shall select from among the projects dem-

onstrated on the model farm established in the State pursuant to section 3261 of this title. Such demonstrations shall be carried out on farms which are already operating in the State.

(b) Activities and responsibilities of fund recipients

The recipient or recipients in each State shall enter into written agreements with persons who own farms and who are willing to carry out solar energy project demonstrations under this section. Such agreements shall include the following provisions concerning solar energy projects which the owners agree to demonstrate on such farms:

(1) The owner shall carry out the projects on the farm for such period as the Secretary determines to be necessary to fairly demonstrate them.

(2) Tools, equipment, seeds, seedlings, fertilizer, equipment, and other agricultural materials and technology which are necessary to carry out the projects and which, on the date of such agreement, are not commonly being used on farms in such State, shall be provided by the recipient or recipients.

(3) During the demonstration period, the recipient or recipients, with the assistance of the Extension Service of the Department of Agriculture, shall provide the owner with technical assistance concerning such projects.

(4) During the demonstration period and for such other periods as the recipient or recipients deem necessary, the owner shall—

(A) keep a monthly record for the farm of changes, if any, in energy usage and costs, the amount of agricultural commodities produced, the costs of producing such amount, and the income derived from producing such amount, and of such other data concerning the projects as the recipient or recipients may require; and

(B) transmit to the recipient or recipients such monthly records, along with a report containing his or her findings, conclusions, and recommendations concerning the projects.

(5) During the demonstration period, the owner shall give tours of the farm to farmers and other interested groups and individuals and provide them with a summary of the costs of carrying out such projects.

(6) All right, title, and interest to any agricultural commodity produced on the farm as a result of the projects shall be in the owner.

(7) At the end of the demonstration period, the owner shall have all right, title, and interest to any materials and technology provided under paragraph (2) of this subsection.

(8) Such other provisions as the Secretary may, by rule, require.

(Pub. L. 95–113, title XIV, § 1453, Sept. 29, 1977, 91 Stat. 1014.)

Section Referred to in Other Sections

This section is referred to in section 3261 of this title.

§ 3263. Authorization of appropriations

There are authorized to be appropriated for distribution to eligible institutions for use in establishing model farms and solar energy project demonstrations under the provisions of this part, $20,000,000 for the period beginning October 1, 1977, and ending September 30, 1981, and thereafter such sums as may subsequent to September 29, 1977, be authorized by law for any subsequent fiscal year.

(Pub. L. 95–113, title XIV, § 1454, Sept. 29, 1977, 91 Stat. 1015.)

Part D—Regional Solar Energy Research and Development Centers

Part Referred to in Other Sections

This part is referred to in section 3281 of this title.

§ 3271. Establishment

In order to provide for agricultural research, development, and demonstration projects having a national or regional application, the Secretary shall establish in existing Federal facilities or in cooperation with State and local government agencies, including State departments of agriculture, colleges and universities, or other qualified persons and organizations, including local nonprofit research groups, not less than three nor more than five regional solar energy research, development, and demonstration centers in the United States for the performance of agricultural research, extension work, and demonstration projects relating to use of solar energy with respect to farm buildings, farm homes, and farm machinery (including equipment used to dry and cure crops and provide irrigation), to be variously located so as to reflect the unique solar characteristics of different latitudes and climatic regions within the United States. Funds used in the operation of such regional centers may be used for the rehabilitation of existing buildings or facilities to house such centers, but may not be used for the construction or acquisition of new buildings.

(Pub. L. 95–113, title XIV, § 1455, Sept. 29, 1977, 91 Stat. 1015.)

Effective Date

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Part E—Appropriations and Definitions

§ 3281. Authorization of appropriations

There are authorized to be appropriated such funds as are necessary to carry out the provisions of parts A, B, and D of this subchapter.

(Pub. L. 95–113, title XIV, § 1456, Sept. 29, 1977, 91 Stat. 1015.)

Effective Date

Part effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3282. Definitions

For purposes of this subchapter—

(1) the term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.]; and

(2) the term "State" means any State of the United States, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, and the Virgin Islands of the United States.

(Pub. L. 95-113, title XIV, § 1457, Sept. 29, 1977, 91 Stat. 1015.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original, "this subtitle", meaning Pub. L. 95-113, title XIV, subtitle H, §§ 1446-1457, Sept. 29, 1977, 91 Stat. 1011, which enacted this subchapter and amended sections 341, 342, 427, 1923, and 1942 of this title. For complete classification of such subtitle H to the Code, see Tables.

The Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, referred to in par. (1) is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

SUBCHAPTER VIII—INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION

§ 3291. Authorized activities

The Secretary, subject to such coordination with other Federal officials, departments, and agencies as the President may direct, is authorized to—

(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural research and extension activities by exchanging research materials and results with such institutions or persons and by conducting with such institutions or persons joint or coordinated research and extension on problems of significance to agriculture in the United States;

(2) assist the Agency for International Development with agricultural research and extension programs in developing countries;

(3) work with developed countries on agricultural research and extension, including the stationing of United States scientists at national and international institutions in such countries;

(4) assist United States colleges and universities in strengthening their capabilities for agricultural research and extension relevant to agricultural development activities overseas; and

(5) further develop within the Department of Agriculture highly qualified experienced scientists who specialize in international programs, to be available for the activities described in this section.

(Pub. L. 95-113, title XIV, § 1458, Sept. 29, 1977, 91 Stat. 1015.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

SUBCHAPTER IX—STUDIES

§ 3301. Extension Service and cooperative extension services

The Secretary shall transmit to Congress, not later than March 31, 1979, an evaluation of the economic and social consequences of the programs of the Extension Service and the cooperative extension services, including those programs relating to agricultural production and distribution, home economics, nutrition education (including the Expanded Family and Nutrition Education Program), community development, and 4-H youth programs.

(Pub. L. 95-113, title XIV, § 1459, Sept. 29, 1977, 91 Stat. 1016.)

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

§ 3302. Weather and water allocation

The Secretary shall conduct a comprehensive study of the effects of changing climate and weather on crop and livestock productivity and, within twelve months after September 29, 1977, submit to the President and Congress a report together with pertinent recommendations, on this study. The study shall include—

(1) an assessment of current climate and weather conditions in the United States and the possible impact of changes in climate and weather conditions on the Nation's economy and future food and feed availability and prices;

(2) a review of Federal and State water allocation policies; and

(3) a consideration of strategies and techniques for dealing with water shortages in the United States that could occur if current climate and weather conditions continue or become more severe.

(Pub. L. 95-113, title XIV, § 1460, Sept. 29, 1977, 91 Stat. 1016.)

§ 3303. Organic farming

The Secretary shall conduct, and, within twelve months after September 29, 1977, submit to the President and Congress a report containing the results of and the Secretary's recommendations concerning, an investigation and analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting or similarly treating such materials, and transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of such collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices.

(Pub. L. 95-113, title XIV, § 1461, Sept. 29, 1977, 91 Stat. 1016.)

§ 3304. Agricultural research facilities

(a) Report to President and Congress

The Secretary shall conduct a comprehensive study of the status and future needs of agricultural research facilities and, within fourteen months after September 29, 1977, submit to the President and Congress a report on this study.

(b) Report and recommendations

(1) The report shall cover agricultural research facilities and materials including, but not limited to, buildings and farms, laboratories, plant, seed, genetic stock, insect, virus, and animal collections, and lease and purchase items such as computers, laboratory instruments, and related equipment.

(2) The report shall include recommendations for a program to provide the United States with the most modern and efficient system of research facilities needed to advance agricultural research in all fields, and recommendations with regard to priority requirements for research instrumentation and facilities needing modernization, construction, or renovation in accordance with the requirements of State, regional, and national priority programs of research and based on the fullest utilization of human, monetary, and physical resources.

(Pub. L. 95–113, title XIV, § 1462, Sept. 29, 1977, 91 Stat. 1017.)

SUBCHAPTER X—FUNDING AND MISCELLANEOUS PROVISIONS

§ 3311. Authorization of appropriations

(a) Existing programs

Notwithstanding any authorization for appropriations for agricultural research in any Act enacted prior to September 29, 1977 enactment of this title, there are hereby authorized to be appropriated for the purposes of carrying out the provisions of this chapter, except subchapter VII of this chapter and sections 390 to 390j, 3152, 3154, and 2669 of this title, and the competitive grants program provided for in section 450i of this title, and except that the authorization for moneys provided under the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), is excluded and is provided for in subsection (b) of this section, $505,000,000 for the fiscal year ending September 30, 1978, $575,000,000 for the fiscal year ending September 30, 1979, $645,000,000 for the fiscal year ending September 30, 1980, $715,000,000 for the fiscal year ending September 30, 1981, and $780,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after the date of enactment of this title be authorized by law for any subsequent fiscal year.

(b) Agricultural research at State agricultural experiment stations

Notwithstanding any authorization for appropriations for agricultural research at State agricultural experiment stations in any Act enacted prior to September 29, 1977, there are authorized to be appropriated for the purpose of conducting agricultural research at State agricultural experiment stations pursuant to the Act of March 2, 1887 (24 Stat. 440–442, as amended; 7 U.S.C. 361a–361i), $120,000,000 for the fiscal year ending September 30, 1978, $145,000,000 for the fiscal year ending September 30, 1979, $170,000,000 for the fiscal year ending September 30, 1980, $195,000,000 for the fiscal year ending September 30, 1981, and $220,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977 be authorized by law for any subsequent fiscal year.

(Pub. L. 95–113, title XIV, § 1463, Sept. 29, 1977, 91 Stat. 1017.)

REFERENCES IN TEXT

This "chapter", referred to in subsec. (a), read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

Subchapter VII of this chapter, referred to in subsec. (a), read in the original, "subtitle H", meaning Pub. L. 95–113, title XIV, subtitle H, §§ 1446–1457, Sept. 29, 1977, 91 Stat. 1011, which enacted subchapter VII (§ 3241 et seq.) of this chapter and amended sections 341, 342, 427, 1923, and 1942 of this title. For complete classification of such Subtitle H to the Code, see Tables.

Sections 390 to 390j, referred to in subsec. (a), in the original read section 1416, meaning section 1416 of Pub. L. 95–113, which enacted sections 390c to 390j of this title, amended sections 390, 390a, and 390b of this title, and repealed section 390k of this title.

The Act of March 2, 1887, referred to in subsecs. (a) and (b), is act Mar. 2, 1887, ch. 314, 24 Stat. 440, as amended, popularly known as the Hatch Act of 1887, which is classified generally to sections 361a to 361i of this title. For complete classification of this Act to the Code, see Short Title note set out under section 361a of this title and Tables.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

§ 3312. Authorization of appropriations for extension education

Notwithstanding any authorization for appropriations for the Cooperative Extension Service in any Act enacted prior to September 29, 1977, there are hereby authorized to be appropriated for the purposes of carrying out the extension programs of the Department of Agriculture $260,000,000 for the fiscal year ending September 30, 1978, $280,000,000 for the fiscal year ending September 30, 1979, $300,000,000 for the fiscal year ending September 30, 1980, $320,000,000 for the fiscal year ending September 30, 1981, and $350,000,000 for the fiscal year ending September 30, 1982, and not in excess of such sums as may after September 29, 1977, be authorized by law for any subsequent fiscal year.

(Pub. L. 95–113, title XIV, § 1464, Sept. 29, 1977, 91 Stat. 1018.)

§ 3313. Payment of funds

Except as provided elsewhere in this Act or any other Act of Congress, funds available for allotment under this chapter shall be paid to each eligible institution or State at such time and in such amounts as shall be determined by the Secretary.

(Pub. L. 95–113, title XIV, § 1467, Sept. 29, 1977, 91 Stat. 1018.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3314. Withholding of funds

Except as provided elsewhere in this Act or any other Act of Congress, if the Secretary determines that an institution or State is not entitled to receive its allotment of an annual appropriation under any provision of this chapter because of a failure to satisfy requirements of this chapter or regulations issued under it, the Secretary shall withhold such amounts, the facts and reasons concerning the determination and withholding shall be reported to the President, and the amount involved shall be deposited in the miscellaneous receipts of the Treasury.

(Pub. L. 95–113, title XIV, § 1468, Sept. 29, 1977, 91 Stat. 1018.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3315. Auditing, reporting, bookkeeping, and administrative requirements

Except as provided elsewhere in this Act or any other Act of Congress—

(1) assistance provided under this chapter shall be subject to the provisions of sections 450i(e), 450i(f), and 450i(h) of this title;

(2) the Secretary shall provide that each recipient of assistance under this chapter shall submit an annual report, at such times and on such forms as the Secretary shall prescribe, stating the accomplishments of projects (on a project-by-project basis) for which such assistance was used and accounting for the use of all such assistance. If the Secretary determines that any portion of funds made available under this chapter has been lost or applied in a manner inconsistent with the provisions of this chapter or regulations issued thereunder the recipient of such funds shall reimburse the Federal Government for the funds lost or so applied, and the Secretary shall not make available to such recipient any additional funds under this Act until the recipient has so reimbursed the Federal Government;

(3) three per centum of the appropriations shall be retained by the Secretary for the administration of the programs authorized under this chapter; and

(4) the Secretary shall establish appropriate criteria for grant and assistance approval and necessary regulations pertaining thereto.

(Pub. L. 95–113, title XIV, § 1469, Sept. 29, 1977, 91 Stat. 1019.)

REFERENCES IN TEXT

This Act, referred to in provision preceding par. (1) and in par. (2), is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913, known as the Food and Agriculture Act of 1977. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1281 of this title and Tables.

This "chapter", referred to in pars. (1), (2), and (3), read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 3316. Rules and regulations

The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to carry out the provisions of this chapter.

(Pub. L. 95–113, title XIV, § 1470, Sept. 29, 1977, 91 Stat. 1019.)

REFERENCES IN TEXT

This "chapter", referred to in text, read in the original, this "title", meaning Pub. L. 95–113, title XIV, Sept. 29, 1977, 91 Stat. 981, which enacted this chapter and sections 2669 and 2670 of this title, amended sections 341, 342, 343, 361c, 390 to 390j, 427, 450i, 1923, 1942, 2662, 2663, and 2667 of this title and section 6651 of Title 42, The Public Health and Welfare, and repealed section 390k of this title. For complete classification of such title to the Code, see Short Title note set out under section 3101 of this title and Tables.

CHAPTER 65—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION [NEW]

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§ 3401. Congressional findings and declaration of policy

(a) Wheat is basic to the American diet and the American economy. It is grown by thousands of farmers and consumed, in various forms, by millions of people in the United States.

(b) The size of the American wheat crop and how it is marketed and ultimately consumed determines whether many Americans receive adequate nourishment. Wheat has a strong impact on the Nation's well-being. Additional research on the optimal use of wheat products can improve the American diet. Consumer education about the nutritional value and economic use of wheat products can enhance the national welfare.

(c) It has long been recognized that it is in the national interest to have a regular, adequate, and high quality wheat supply. It would be extremely difficult, without an effective coordinated research and nutrition education effort, to accomplish this objective. A programed effort of research and nutrition education is of great importance to wheat producers, processors, end product manufacturers, and consumers.

(d) It is the purpose of this chapter and in the public interest to authorize and enable the creation of an orderly procedure, adequately financed through an assessment, for the development and initiation of an effective and continuous coordinated program of research and nutrition education, designed to improve and enhance the quality, and make the most efficient use, of American wheat, processed wheat, and wheat end products to ensue an adequate diet for the people of the United States. The maximum rate of assessment authorized hereunder represents an infinitesimal proportion of the overall cost of manufacturing wheat end products. Therefore, such assessment will not significantly affect the retail prices of those products. Furthermore, any price effect will be more than offset by the increased efficiency in end product manufacture and increased consumer acceptance, due to nutritional improvements in wheat products, which may be expected to follow from adoption of a plan under this chapter. Nothing in this chapter shall be construed to provide for control of production or otherwise limit the right of individual wheat producers to produce wheat.

(Pub. L. 95–113, title XVII, § 1702, Sept. 29, 1977, 91 Stat. 1031.)

Effective Date

Chapter effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of this title.

Short Title

Section 1701 of Pub. L. 95–113 provided that: "This title [this chapter] may be cited as the 'Wheat and Wheat Foods Research and Nutrition Education Act'."

Separability of Provisions

Section 1718 of Pub. L. 95–113 provided that: "If any provision of this title [this chapter] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby."

§ 3402. Definitions

For the purposes of this chapter:

(a) The term "wheat" means all classes of wheat grains grown in the United States.

(b) The term "processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

(c) The term "end product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

(d) The term "wheat producer" means any person who grows wheat within the United States for market.

(e) The term "processor" means any person who commercially produces processed wheat within the United States.

(f) The term "end product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

(g) The term "research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

(h) The term "nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

(i) The term "Council" means the Wheat Industry Council established pursuant to section 3405 of this title.

(j) The term "Department" means the United States Department of Agriculture.

(k) The term "Secretary" means the Secretary of Agriculture of the United States.

(*l*) The term "person" means any individual, partnership, corporation, association, or other entity.

(m) The term "United States" means the several States and the District of Columbia, including any territory or possession.

(Pub. L. 95–113, title XVII, § 1703, Sept. 29, 1977, 91 Stat. 1032.)

§ 3403. Issuance of orders

(a) Notice and hearing

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, the Secretary shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 3413 of this title, or by any interested person affected by the provisions of this chapter, including the Secretary.

(b) Effectuation of Congressional policy

After notice and opportunity for hearing as provided in subsection (a) of this section, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, upon the evidence introduced at such hearing that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 95–113, title XVII, § 1704, Sept. 29, 1977, 91 Stat. 1033.)

Section Referred to in Other Sections

This section is referred to in section 3413 of this title.

§ 3404. Permissive terms and conditions of orders

Any order issued pursuant to this chapter shall contain one or more of the following terms and conditions, and, except as provided in section 3405 of this title, no others:

(a) Nutrition education plans

providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets with respect to wheat, processed wheat, and end products, and for the disbursement of necessary funds for such purposes: *Provided,* That in carrying out any such plan or project, no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against wheat, processed wheat, and end products of other person: *Provided further,* That no such plans or projects shall make use of unfair or deceptive acts or practices in behalf of wheat, processed wheat, and end products or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product;

(b) Research and studies

providing for the establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization, or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that the marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable, and for the disbursement of necessary funds for such purposes;

(c) Records and reports; confidential information; penalties

providing that processors, distributors of processed wheat, and end product manufacturers shall maintain and make available for inspection by the Secretary or the Council such books and records as may be required by any order issued pursuant to this title and for the filing of reports by such persons at the time, in the manner, and having the content prescribed by the order, to the end that information shall be made available to the Council and to the Secretary which are appropriate or necessary to the effectuation, administration, or enforcement of this chapter, or of any order or regulation issued pursuant to this chapter: *Provided,* That all information so obtained shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of general statements

relating to refunds made by the Council during any specific period, or (3) the publication by direction of the Secretary of the name of any person who has been adjudged to have violated any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee of the Department, the Council, or a contracting agency violating the provisions of this clause shall, upon conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both, and if an officer or employee of the Council or Department shall be removed from office;

(d) Assessment exemption

providing for exemption of specified end products, or types or categories thereof, from the assessments required to be paid under section 3405 of this title under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder; and

(e) Miscellaneous terms and conditions

terms and conditions incidental to and not inconsistent with the terms and conditions specified in this chapter and necessary to effectuate the other provisions of such order.

(Pub. L. 95–113, title XVII, § 1705, Sept. 29, 1977, 91 Stat. 1033.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3405 of this title.

§ 3405. Wheat Industry Council

Any order issued pursuant to this chapter shall contain such terms and conditions as to provide—

(a) Establishment; powers

for the establishment and appointment by the Secretary of a Wheat Industry Council which shall consist of not more than twenty members and alternates therefor, and for the definition of its powers and duties which shall include only the powers enumerated in this section, and shall specifically include the powers to (1) administer such order in accordance with its terms and provisions, (2) make rules and regulations to effectuate the terms and provisions of such order, (3) receive, investigate, and report to the Secretary complaints of violations of such order, and (4) recommend to the Secretary amendments to such order. The term of an appointment to the Council shall be for two years with no member serving more than three consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms;

(b) Membership

that the Council and alternates therefor shall be composed of wheat producers or representatives of wheat producers, processors or representatives of processors, end product manufacturers or representatives of end product manufacturers, and consumers or representatives of consumers appointed by the Secretary from nominations submitted by eligible organizations or associations certified pursuant to section 3413 of this title, or, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers, or consumers are not members of, or their interests are not represented by any such eligible organizations or associations then from nominations made by such wheat producers, processors, end product manufacturers, and consumers in the manner authorized by the Secretary, so that the representation of wheat producers, processors, end product manufacturers, and consumers on the Council shall be equal: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of wheat producers, processors, end product manufacturers, and consumers throughout the United States;

(c) Research and nutrition education plans

that the Council shall, subject to the provisions of clause (g) of this section, develop and submit to the Secretary for approval any research plans or projects and nutrition education plans or projects resulting from research, and that any such plan or project must be approved by the Secretary before becoming effective;

(d) Budgets

that the Council shall, subject to the provisions of clause (g) of this section, submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of research and nutrition education projects;

(e) Processed wheat assessment; payment by end product manufacturers

that, except as provided in sections 3404(d) and 3406 of this title, each end product manufacturer shall pay to the Council, pursuant to reglations issued under the order, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat, for use in the manufacture of end products, from processors, distributors, or (in the case of intra-company transfers) related companies or divisions of the same company. Such assessment shall be used for such expenses and expenditures defined above, including provisions for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary and the Council under this chapter, as the Secretary finds are reasonable and likely to be incurred under the order during any period specified by the Secretary. The circumstances under which such a purchase or intra-company transfer will be deemed to have occurred will be prescribed by the Secretary in the order. Such assessment shall be calculated and set aside on the books and records of the end product manufacturer at the time of each purchase or intra-company transfer of processed wheat, and shall be remitted to the Council in the manner prescribed by the order. In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other

ingredients to such end product manufacturers for use in the manufacture of end products, shall disclose to such end product manufacturers, as prescribed by the Secretary in the order, the amount or proportion of processed wheat contained in such products. The rate of assessment shall not exceed five cents per hundredweight of processed wheat purchased or transferred. The Secretary may maintain a suit against any person subject to such assessment for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy;

(f) Maintenance of records

that the Council shall maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Council, with respect to the receipt and disbursement of all funds entrusted to it;

(g) Contracts

that the Council, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order pursuant to terms and conditions specified in clauses (a) and (b) of section of this title and for the payment of the cost thereof with funds collected through the assessments pursuant to the order. Any such contract or agreement shall provide that the contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) Investment of assessment funds

that the Council, with the approval of the Secretary, may invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under this title in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) Lobbying restriction

that no funds collected by the Council under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by clause (a)(4) of this section; and

(j) Reimbursement of expenses

that the Council members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Council.

(Pub. L. 95-113, title XVII, § 1706, Sept. 29, 1977, 91 Stat. 1034.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3402, 3404, 3413 of this title.

§ 3406. Exemption for retail bakers

Any end product manufacturer who is a retail baker shall be exempt from the provisions of this chapter. For the purposes of this section, the term "retail baker" shall be deemed to include all end product manufacturers who sell end products directly to the ultimate consumer: *Provided*, That such term shall not include any end product manufacturer who derives less than 10 per centum of gross end product sales revenues from sales to ultimate consumers or who derives 10 per centum or more of gross food or food products sales revenues from the sale of such products manufactured or produced by others.

(Pub. L. 95-113, title XVII, § 1707, Sept. 29, 1977, 91 Stat. 1036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3405 of this title.

§ 3407. Referendum

The Secretary shall conduct a referendum as soon as practicable among end product manufacturers not exempt hereunder who, during a representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the manufacture of end products, for the purpose of ascertaining whether the issuance of an order is approved or favored by such manufacturers. Qualified end product manufacturers may register with the Secretary by mail to vote in such referendum during a period ending not less than thirty days prior to the date of the referendum. Within ten days thereafter, the Secretary shall determine which end product manufacturers are eligible to vote in such referendum and cause to be published the list of such eligible voters. The Secretary shall issue ballots to all such persons who have so registered and been declared eligible to vote. No order issued pursuant to this chapter shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of such registered end product manufacturers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the end product manufacturers voting in such referendum or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured by those voting in the referendum, during the representative period defined by the Secretary: *Provided*, That at the time of the registration provided under this section each end product manufacturer so registering shall certify to the Secretary the amount of

processed wheat contained in the end products manufactured by such end product manufacturer during such representative period. The Secretary shall be reimbursed from assessments collected by the Council for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the courts determine a recount and retabulation of results is appropriate.

(Pub. L. 95–113, title XVII, § 1708, Sept. 29, 1977, 91 Stat. 1036.)

§ 3408. Refund of processed wheat assessment

(a) Election of end product manufacturers to seek refunds

Subsequent to the approval by the Secretary of the annual budget of the Council or amendments thereto, a summary of such budget or amendments thereto, including a brief general description of the proposed research and nutrition education programs contemplated therein, shall be published in the Federal Register. All end product manufacturers not exempt hereunder shall have sixty days from the date of such publication within which to elect, under such conditions as the Secretary may prescribe, by so indicating to the Council in writing, by registered or certified mail, to reserve the right to seek refunds under subsection (b) of this section. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such sixty-day period.

(b) Refund demand; rules and regulations

Notwithstanding any other provision of this chapter, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under subsection (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: *Provided*, That such demand shall be made by such end product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

(Pub. L. 95–113, title XVII, § 1709, Sept. 29, 1977, 91 Stat. 1037.)

§ 3409. Petition and review

(a) Petition; hearing; ruling

Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) Judicial review; jurisdiction; process; remand

The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

(Pub. L. 95–113, title XVII, § 1710, Sept. 29, 1977, 91 Stat. 1037.)

§ 3410. Enforcement of orders and regulations

(a) Jurisdiction; reference of civil actions to Attorney General

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this chapter. Any civil action authorized to be brought under this chapter shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this chapter shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this chapter whenever the Secretary believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Penalties

Any end product manufacturer or other person who willfully violates any provision of any order issued by the Secretary under this chapter, or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) Other remedies

The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

(Pub. L. 95–113, title XVII, § 1711, Sept. 29, 1977, 91 Stat. 1038.)

§ 3411. Suspension and termination of orders

(a) Authority and responsibility of Secretary

The Secretary shall, whenever he finds that any order issued under this chapter, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(b) Referendum

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of end product manufacturers subject to the order, to determine whether such manufacturers favor the termination or suspension of the order, and the Secretary shall suspend or terminate such order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 per centum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

(c) Suspension or termination of order not to be considered an order

The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this chapter.

(Pub. L. 95-113, title XVII, § 1712, Sept. 29, 1977, 91 Stat. 1038.)

§ 3412. Investigations; power to subpena and take oaths and affirmations; aid of courts

The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this chapter or to determine whether any person subject to the provisions of this chapter has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this chapter, or of any order, or rule or regulation issued under this chapter. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

(Pub. L. 95-113, title XVII, § 1713, Sept. 29, 1977, 91 Stat. 1039.)

§ 3413. Certification of organizations

The eligibility of any organization to represent wheat producers, processors, end product manufacturers, or consumers to request the issuance of an order under section 3403(a) of this title and to participate in the making of nominations under section 3405(b) of this title, shall be certified by the Secretary. The Secretary shall certify any organization which the Secretary finds to be eligible under this section and the Secretary's determination as to eligibility shall be final. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization,

(c) evidence of stability and permanency of the organization,

(d) sources from which the organization's operating funds are derived,

(e) functions of the organization, and

(f) the organization's ability and willingness to further the aims and objectives of this title: *Provided*, That the primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacture of wheat or wheat products, and the nutritional attributes thereof: *Provided further*, That the primary consideration in determining the eligibility of a consumer organization shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of this chapter.

(Pub. L. 95-113, title XVII, § 1714, Sept. 29, 1977, 91 Stat. 1039.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3403, 3405 of this title.

§ 3414. Other programs relating to wheat or wheat food research or nutrition education

Nothing in this chapter shall be construed to preempt or interfere with the workings of any other program relating to wheat or wheat foods research or nutrition education organized and operating under the laws of the United States or any State.

(Pub. L. 95-113, title XVII, § 1715, Sept. 29, 1977, 91 Stat. 1040.)

§ 3415. Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 95-113, title XVII, § 1716, Sept. 29, 1977, 91 Stat. 1040.)

§ 3416. Amendments to orders

The provisions of this chapter applicable to orders shall be applicable to amendments to orders.

(Pub. L. 95-113, title XVII, § 1717, Sept. 29, 1977, 91 Stat. 1040.)

§ 3417. Authorization of appropriations

There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this chapter. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of any order issued pursuant to the terms of this chapter.

(Pub. L. 95-113, title XVII, § 1719, Sept. 29, 1977, 91 Stat. 1040.)

CHAPTER 66—AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE [NEW]

Sec.

3501. Reporting requirements.
- (a) Acquisitions or transfers of certain agricultural land interests by foreign persons.
- (b) Agricultural land interests presently held by foreign persons.
- (c) Change in foreign person status of interest holders.
- (d) Conversion of land to agricultural uses.
- (e) Additional reports by foreign persons other than individuals or governments.
- (f) Persons holding interests under subsection (e).

3502. Civil penalty.
3503. Investigative actions.
3504. Reports to Congress and the President.
3505. Reports to the States.
3506. Public inspection.
3507. Regulations.
3508. Definitions.

§ 3501. Reporting requirements

(a) Acquisitions or transfers of certain agricultural land interests by foreign persons

Any foreign person who acquires or transfers any interest, other than a security interest, in agricultural land shall submit a report to the Secretary of Agriculture not later than 90 days after the date of such acquisition or transfer. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which such foreign person acquired or transferred;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) in any case in which such foreign person transfers such interest, the legal name and the address of the person to whom such interest is transferred and—

(A) in any case in which such transferee is an individual, the citizenship of such transferee; and

(B) in any case in which such transferee is not an individual or a government, the nature of the legal entity holding the interest, the country in which such transferee is created or organized, and the principal place of business of such transferee;

(8) the agricultural purposes for which such foreign person intends, on the date on which such report is submitted to the Secretary, to use such agricultural land; and

(9) such other information as the Secretary may require by regulation.

(b) Agricultural land interests presently held by foreign persons

Any foreign person who holds any interest, other than a security interest, in agricultural land on the day before the effective date of this section shall submit a report to the Secretary not later than 180 days after such effective date. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain—

(1) the legal name and the address of such foreign person;

(2) in any case in which such foreign person is an individual, the citizenship of such foreign person;

(3) in any case in which such foreign person is not an individual or a government, the nature of the legal entity holding the interest, the country in which such foreign person is created or organized, and the principal place of business of such foreign person;

(4) the type of interest in agricultural land which is held by such foreign person;

(5) the legal description and acreage of such agricultural land;

(6) the purchase price paid for, or any other consideration given for, such interest;

(7) the agricultural purposes for which such foreign person—

(A) is using such agricultural land on the date on which such report is submitted to the Secretary; and

(B) intends, as of such date, to use such agricultural land; and

(8) such other information as the Secretary may require by regulation.

(c) Change in foreign person status of interest holders

Any person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in agricultural land at a time when such person is not a foreign person and who subsequently becomes a foreign person shall submit a report to the Secretary not later than 90 days after the date on which such person becomes a foreign person. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(d) Conversion of land to agricultural uses

Any foreign person who holds or acquires (on or after the effective date of this section) any interest, other than a security interest, in land at a time when such land is not agricultural land and such land subsequently becomes agricultural land shall submit a report to the Secretary not later than 90 days after the date on which such land becomes agricultural land. Such report shall be submitted in such form and in accordance with such procedures as the Secretary may require and shall contain the information required by subsection (b) of this section. This subsection shall not apply with respect to any person who is required to submit a report with respect to such land under subsection (b) of this section.

(e) Additional reports by foreign persons other than individuals or governments

With respect to any foreign person, other than an individual or a government, who is required by subsection (a), (b), (c), or (d) of this section to submit a report, the Secretary may, in addition, require such foreign person to submit to the Secretary a report containing—

(A) the legal name and the address of each person who holds any interest in such foreign person;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principal place of business of such holder.

(f) Persons holding interests under subsection (e)

With respect to any person, other than an individual or a government, whose legal name is contained in any report submitted under subsection (e) of the section, the Secretary may require such person to submit to the Secretary a report containing—

(A) the legal name and the address of any person who holds any interest in the person submitting the report under this subsection;

(B) in any case in which the holder of such interest is an individual, the citizenship of such holder; and

(C) in any case in which the holder of such interest is not an individual or a government, the nature of the legal entity holding the interest, the country in which such holder is created or organized, and the principle [1] place of business of such holder.

(Pub. L. 95–460, § 2, Oct. 14, 1978, 92 Stat. 1263.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsecs. (b) to (d), see section 10(b) of Pub. L. 95–460, set out as a note below.

EFFECTIVE DATE

Section 10 of Pub. L. 95–460 provided that:

"(a) Except as provided in subsection (b) of this section, this Act [enacting this chapter] shall become effective on the date of the enactment of this Act [Oct. 14, 1978].

"(b) Section 2 [section 3501 of this title] shall become effective on the date on which regulations prescribed by the Secretary under section 8 [section 3507 of this title] become effective."

SHORT TITLE

Section 1 of Pub. L. 95–460 provided that: "This Act [enacting this chapter] may be cited as the 'Agricultural Foreign Investment Disclosure Act of 1978'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3502, 3503, 3504, 3505, 3506 of this title.

§ 3502. Civil penalty

(a) If the Secretary determines that a person—

(1) has failed to submit a report in accordance with the provisions of section 3501 of this title, or

(2) has knowingly submitted a report under section 3501 of this title—

(A) which does not contain all the information required to be in such report, or

(B) which contains information that is misleading or false,

such person shall be subject to a civil penalty imposed by the Secretary. The amount of any such civil penalty shall be determined in accordance with the provisions of subsection (b) of this section. Any such civil penalty shall be recoverable in a civil action brought by the Attorney General of the United States in an appropriate district court of the United States.

(b) The amount of any civil penalty imposed by the Secretary under subsection (a) of this section shall be such amount as the Secretary

[1] So in original. Probably should be "principal".

determines to be appropriate to carry out the purposes of this chapter, except that such amount shall not exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest in agricultural land with respect to which such violation occurred.

(Pub. L. 95–460, § 3, Oct. 14, 1978, 92 Stat. 1265.)

§ 3503. Investigative actions

The Secretary may take such actions as the Secretary considers necessary to monitor compliance with the provisions of this chapter and to determine whether the information contained in any report submitted under section 3501 of this title accurately and fully reveals the ownership interest of all foreign persons in any foreign person who is required to submit a report under such section.

(Pub. L. 95–460, § 4, Oct. 14, 1978, 92 Stat. 1265.)

§ 3504. Reports to Congress and the President

(a) In accordance with the schedule set forth in subsection (b) of this section, the Secretary shall—

(1) with respect to each period set forth in such subsection, analyze information obtained by the Secretary under section 3501 of this title and determine the effects of foreign persons acquiring, transferring, and holding agricultural land, particularly the effects of such acquisitions, transfers, and holdings on family farms and rural communities; and

(2) transmit to the President and each House of the Congress a report on the Secretary's findings and conclusions regarding—

(A) each analysis and determination made under paragraph (1); and

(B) the effectiveness and efficiency of the reporting requirements contained in section 3501 of this title in providing the information required to be reported by such section.

(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination transmitted, pursuant to subsection (a) of this section—

(1) with respect to information obtained by the Secretary under section 3501 of this title during the 6-month period following the effective date of section 3501 of this title, within 9 months after such effective date;

(2) with respect to information obtained by the Secretary under section 3501 of this title during the 12-month period following the effective date of section 3501 of this title, within 15 months after such effective date; and

(3) with respect to each calendar year following the 12-month period referred to in paragraph (2), within 90 days after the end of such calendar year.

(Pub. L. 95–460, § 5, Oct. 14, 1978, 92 Stat. 1265.)

REFERENCES IN TEXT

For the effective date of section 3501 of this title, referred to in subsec. (b)(1), (2), see section 10(b) of Pub. L. 95–460, set out as a note under section 3501 of this title.

§ 3505. Reports to the States

Not later than 30 days after the end of each 6-month period beginning after the effective date of section 3501 of this title, the Secretary shall transmit to each State department of agriculture, or such other appropriate State agency as the Secretary considers advisable, a copy of each report which was submitted to the Secretary under section 3501 of this title during such 6-month period and which involved agricultural land located in such State.

(Pub. L. 95–460, § 6, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

For the effective date of section 3501 of this title, referred to in text, see section 10(b) of Pub. L. 95–460, set out as a note under section 3501 of this title.

§ 3506. Public inspection

Any report submitted to the Secretary under section 3501 of this title shall be available for public inspection at the Department of Agriculture located in the District of Columbia not later than 10 days after the date on which such report is received by the Secretary.

(Pub. L. 95–460, § 7, Oct. 14, 1978, 92 Stat. 1266.)

§ 3507. Regulations

Not later than 90 days after October 14, 1978, the Secretary shall prescribe regulations for purposes of carrying out the provisions of this chapter.

(Pub. L. 95–460, § 8, Oct. 14, 1978, 92 Stat. 1266.)

§ 3508. Definitions

For purposes of this chapter—

(1) the term "agricultural land" means any land located in one or more States and used for agricultural, forestry, or timber production purposes as determined by the Secretary under regulations to be prescribed by the Secretary;

(2) the term "foreign government" means any government other than the Federal Government or any government of a State or a political subdivision of a State;

(3) the term "foreign person" means—

(A) any individual—

(i) who is not a citizen or national of the United States;

(ii) who is not a citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands; or

(iii) who is not lawfully admitted to the United States for permanent residence, or paroled into the United States, under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.];

(B) any person, other than an individual or a government, which is created or organized under the laws of a foreign government or which has its principal place of business located outside of all the States;

(C) any person, other than an individual or a government—

(i) which is created or organized under the laws of any State; and

(ii) in which, as determined by the Secretary under regulations which the Secre-

tary shall prescribe, a significant interest or substantial control is directly or indirectly held—

(I) by any individual referred to in subparagraph (A);

(II) by any person referred to in subparagraph (B);

(III) by any foreign government; or

(IV) by any combination of such individuals, persons, or governments; and

(D) any foreign government;

(4) the term "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, or any other legal entity;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

(Pub. L. 95-460, § 9, Oct. 14, 1978, 92 Stat. 1266.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in par. (3)(A)(iii), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

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